Calendar No. 271

94TH CONGRESS
1st Session

SENATE

REPORT
No. 94-277

COASTAL ZONE MANAGEMENT ACT AMENDMENTS OF 1975

REPORT

OF THE

SENATE COMMITTEE ON COMMERCE

ON

S. 586

TO AMEND THE COASTAL ZONE MANAGEMENT ACT OF 1972 TO AUTHORIZE AND ASSIST THE COASTAL STATES TO STUDY, PLAN FOR, MANAGE, AND CONTROL THE IMPACT OF ENERGY RESOURCE DEVELOPMENT AND PRODUCTION WHICH AFFECTS THE COASTAL ZONE, AND FOR OTHER PURPOSES

JULY 11 (legislative day, JULY 10), 1975.—Ordered to be printed

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Mr. HOLLINGS, from the Committee on Commerce, submitted the following

REPORT

[To accompany S. 586]

The Committee on Commerce, having considered the bill (S. 586) to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy resource development and production which affects the coastal zone, and for other purposes, reports favorably thereon with amendments and recommends that the bill as amended do pass.

PURPOSE AND BRIEF DESCRIPTION

The bill amends the Coastal Zone Management Act of 1972 (16 U.S.C. 1451–1464) to assist those States facing Outer Continental Shelf (OCS) oil and gas development or other energy-related developments and facilities affecting the coastal zone. Assistance is provided in the form of grants or loans to coastal States from a new Coastal Energy Facility Impact Fund, authorized at $250 million for 3 fiscal years and the 1976 transitional quarter. The fund is available to States receiving or anticipating impacts in their coastal zones from the exploration for or development and production of energy resources, or from the location, construction, expansion or operation of any energy facility requiring a Federal license or permit. Up to 20 percent of the fund may be used for planning grants, and the balance is to be used for funding of up to 100 percent (within the limits of the total funds available) of efforts to reduce, ameliorate or compensate for net adverse impacts or to provide public facilities and services made necessary by the energy facility or resource development activity.

Funds may be disbursed to States either as grants or as loans, depending on whether the impacts are temporary or permanent over the

life of the energy facility or resource development activity. During the first 5 years after approval of the bill, States which have experienced net adverse impacts prior to enactment may also receive grants and/or loans from the Coastal Energy Facility Impact Fund.

States must participate in a coastal zone management program, either under sections 305 or 306 of the Coastal Zone Management Act or under State auspices, to be eligible to receive grants or loans from the Coastal Energy Facility Impact Fund. In addition, to receive funds other than planning funds, States must demonstrate to the satisfaction of the Secretary of Commerce that they have experienced or will experience temporary adverse impacts or net adverse impacts. Finally, States must satisfy the Secretary that the funds will be used in a manner consistent with their coastal zone management programs. In making grants or loans, the Secretary is to consider the recommendations of a joint Federal-State Coastal Impacts Review Board.

In addition to the Coastal Energy Facility Impact Fund, two other provisions in the bill will also help the States in planning for and coping with the coastal impacts of energy development and energy facilities. The bill provides for automatic grants to be given to any State which is actually landing OCS oil or natural gas in its coastal zone, or which is adjacent to OCS lands where oil or natural gas in its coastal zone, or which is adjacent to OCS lands where oil or natural gas is being produced. Although the grants come from the General Treasury, and not from OCS revenues, the formula for calculating the amount of the grant is tied to the number of barrels of oil (or the natural gas equivalent) which are produced on adjacent OCS lands and/or landed in the State. These automatic grants must be used to ameliorate adverse impacts of energy resource development or related energy facilities.

The bill also provides a Federal guarantee for State or local government bonds issued to pay for measures needed to reduce, ameliorate or compensate for the adverse coastal impacts of OCS resource development. Additionally, the bill adds the word "lease" to section 307 of the Act, clarifying the applicability of the "Federal consistency provision to OCS leasing; this means that Federal leases must be consistent with approved coastal zone management programs of the affected States.

Other sections of the bill provide funds for research and training assistance to coastal States; for interstate compacts or other entities to facilitate interstate coordination of coastal zone management policies and programs; for land acquisition to encourage access to public beaches and preservation of islands; and for increased development and implementation grants under sections 305 and 306 of the act. The Federal share of coastal zone management (CZM) funding under these sections would rise from the present 66⅔ percent to 80 percent. The Office of Coastal Zone Management would be directed by a new Associate Administrator of the National Oceanic and Atmospheric Administration (NOAA) appointed by the President with the advice and consent of the Senate.

Background and Need

Several recent events, such as the energy crisis, passage of pollution control legislation, and land use conflicts in the coastal zone, have

pointed out the need for effective public policies to guide the use of ocean resources. Senate Resolution 222 was enacted to provide legislative proposals to deal with these policy issues. The National Ocean Policy Study, which was created under the committee's aegis by the resolution, selected as one of its first areas of investigation the energy potential of the Outer Continental Shelf and the impact of energy development and energy facilities upon the coastal zone. Subsequently, the National Ocean Policy Study produced four reports bearing on this issue: (1) "Outer Continental Shelf Oil and Gas Development and the Coastal Zone"; (2) "Outer Continental Shelf Oil and Gas Leasing Off Southern California: Analysis of Issues"; (3) "North Sea Oil and Gas: Impacts of Development on the Coastal Zone"; (4) "An Analysis of the Department of the Interior's Proposed Acceleration of Development of Oil and Gas on the Outer Continental Shelf."

Among the key findings of these reports were:

1. There is a strong likelihood of adverse, often severe, impacts within coastal regions resulting from unplanned, uncoordinated energy resource development and from the siting of facilities related to energy production, development, and utilization.

2. There is very little coordination or communication between Federal agencies and the affected coastal States prior to major energy resource development decisions, such as the decision to lease large tracts of the OCS for oil and gas. Further, coastal States often have been criticized unfairly for delaying the siting of energy facilities when such action often is the result of lack of information and planning.

3. Full implementation of the Coastal Zone Management Act of 1972 and recognition of its capability to solve energy-related conflicts could go far to institute the broad objectives of Federal-State cooperative planning envisioned by the framers of the act. The National Environmental Policy Act and the Coastal Zone Management Act are the two primary planning devices to achieve balanced land use and environmental protection in coastal regions.

History of the Coastal Zone Management Act

Passage of the Coastal Zone Management Act in 1972 followed several years of increasing concern about the destruction of valuable coastal wetlands and beaches. The public first became aware in the 1960's that the coastal areas of the country, including the Great Lakes, represent some of our most valuable national assets. At that time scientists published reports describing the amazing productivity of estuarine areas. Researchers found these coastal waters to be 5 or 10 times more biologically productive than average agricultural lands. Estuaries, it was noted, provide the breeding ground for most of the important commercial fisheries in the country and are habitats for many species of wildlife.[1]

The committee was further persuaded of the need for such assistance by a report of the Technology Assessment Advisory Council of the Congressional Office of Technology Assessment, which stated,

[1] Typical of the reports of this period were "Estuaries" by George Lauff, published by the American Association for the Advancement of Science, and "The Theory of the Estuarine Ecosystem in Relation to Use, Management, and Pollution," by E. P. Odum in a presentation to the National Estuarine Pollution Study.

> * * * the Nation's future growth seems almost certain to be altered drastically from past patterns in which dependency on relatively cheap and plentiful energy has been a principal characteristic. Such a drastic change would likely require explicit policies for a coordinated transition to a different—energy conserving—pattern of national growth.[2]

The Council report also stated:

> Through the entrepreneurship of private industry and the stimulus of Government programs, the application of technology has resulted in a startling tenfold increase in the value of the Nation's economic output in just 40 years. No more rapid increase in aggregate economic output has occurred at any previous period in world history. As spectacular as this growth was in bringing prosperity to wide segments of American society, it was achieved at a price which became increasingly unacceptable. The clustering of technological complexes has brought air and water pollution as well as urban congestion that produced social conflicts and environmental degradation which were not only contrary to American values but also threats to continued technological advance. These unintended and unanticipated consequences became the focus of public concern and, eventually, the Coastal Zone Management Act was enacted to avoid the detrimental aspects while securing the benefits of future applications of technology in the Nation's economic growth.

The committee notes that much of the future growth of the United States will occur in or near the coastal zone. Such growth will bring with it many associated problems. For example:

- More than 50 percent of the population of the United States lives in the counties bordering the oceans and the Great Lakes, and it has been estimated that by the year 2000, some 200 million people will live in the coastal zone.
- The seven largest metropolitan areas of the United States are on the coast.
- Forty percent of the industrial complexes are in estuarine areas.
- Sixty percent of U.S. refining capacity is concentrated in four coastal states (Texas, Louisiana, California and New Jersey), mostly on or near the coast.
- The Interior Department estimates that housing developments will become the leading causes of loss of estuarine areas.
- Much of the anticipated growth in electric power generating capacity will be installed in the coastal zone. Forty percent of the generating capacity brought into service at new

[2] "Recommendation for an Assessment of National Growth Policy Focused on the Siting of Energy Facilities," Technology Assessment Advisory Council, Office of Technology Assessment, U.S. Congress, November 20, 1974.

> sites in 1972 was located in the coastal zone, and this trend will be reinforced by the proliferation of nuclear power plants, on and off shore.

Three major reports in the late 1960's served as the catalyst for action to protect the coasts. The reports pointed out that coastal areas and the estuaries are tied together intimately in a unique ecosystem which can be endangered by inappropriate development levels. The Presidentially appointed Commission on Marine Science, Engineering, and Resources issued its report, "Our Nation and the Sea," in January 1969, after a 2-year study. Known as the Stratton Commission after its chairman, Dr. Julius Stratton, the Commission recommended in its report that Congress pass a "Coastal Management Act" to provide coastal policy objectives and to authorize Federal grants to help States establish coastal zone authorities which could manage coastal waters and adjacent land. The Stratton Commission found that the coast is "in many respects, the Nation's most valuable geographic feature."

Dr. John Knauss, provost for marine affairs at the University of Rhode Island and head of a coastal zone panel for the Commission, summed up the recommendations in testimony that year before the Subcommittee on Oceanography of the House Merchant Marine and Fisheries Committee:

> [The coastal zone] is the area in which industry, trade, recreation, and conservation interests, waste disposal and potentially aquaculture all press most sharply on the limited resources of our environment.
>
> The thing we try to stress in the panel report is that there are rapidly increasing pressures in this area created by the problems of conflicting use, and that many of the problems are expanding seaward.
>
> The Commission finds the key need in the coastal zone to be a management system which will permit conscious and informed choices among development alternatives and which will provide for proper planning. The Federal Government can help in establishing such a system, but the primary responsibility lies with the States.

The Santa Barbara oil spill, also in January 1969, gave special urgency to the Commission's recommendation.

On November 3, 1969, the Federal Water Pollution Control Administration (FWPCA) of the Department of the Interior released its national estuarine pollution study. The document, produced pursuant to the Estuary Protection Act (Public Law 90–454), reported by the Committee on Commerce on July 17, 1968, described the natural functioning of estuaries and detailed the effects of pollution on estuaries. Like the Stratton Report, the estuarine pollution study recommended a coastal zone management effort, noting that the direct relationship between estuaries and coastal zones made it "impractical" to consider them separately. A proper management system, according to the FWPCA report, should recognize "the primary responsibilities of the States * * * for their estuarine and coastal areas, and on the Federal side * * * for the coordination of Federal activities in these

areas and for assistance to the States in their management activities." [3]

A second Interior Department study of estuaries, this one done by the Fish and Wildlife Service, added additional impetus for action in 1970. The survey of the Nation's estuaries found that—with the exception of a few locations in Alaska—all estuarine areas in the Nation had already been modified by man's activities, with 23 percent "severely modified." The report focused on the "urgent need to preserve and restore in the estuaries fish and wildlife resources, associated commercial fishing and outdoor recreation activities, esthetics and natural area preservation * * *." The report concluded:

> It is in the national interest that the Federal Government help to provide leadership and incentive for estuary preservation and restoration for the benefit of all the people. As a first step the coastal zone management system bill should be enacted promptly.[4]

While the foregoing reports found existing State and local coastal protection measures inadequate, some States acted during the late 1960's and early 1970's to ameliorate the problems described in the reports. Most of these States acted to protect natural areas of special value such as dunes, barrier beaches or wetlands. Other States sought to assure public access to beaches. In the Great Lakes region, attention focused on the problems of flooding and shoreline erosion due to high water levels, and several States enacted shoreline control measures. More recently, States, such as Washington, California, and Hawaii, have tried to deal with the controversial issue of siting large energy facilities or, in the case of Delaware, even to bar heavy industry from coastal areas. A few States, such as Rhode Island, Washington and California have enacted comprehensive coastal zone management legislation.

Congressional action leading to passage of the Coastal Zone Management Act of 1972 [Public Law 92–583] began with the 89th Congress which created the Commission on Marine Science, Engineering and Resources by the act of June 17, 1966 [80 Stat. 203, 33 U.S.C. 1101], and its subsequent recommendation for legislation (described above). Bills in response to the Commission's recommendation were introduced in the first session of the 91st Congress, and the Committee on Commerce conducted its first hearing in December 1969. Additional bills were introduced in the second session. Exhaustive hearings were conducted by the committee in 1970, published as serial No. 91–59. A redrafted version of S. 2802 was ordered reported by the Subcommittee on Oceanography to the full committee late in the 91st Congress, but too late for final consideration before the Congress adjourned *sine die.* Early in the 92d Congress, Senator Hollings introduced the subcommittee bill, S. 582, and 3 additional days of hearings were conducted during May 1971, published as serial No. 92–15. The bill was redrafted by the subcommittee—redesignated the Subcommittee on Oceans and Atmosphere—drawing significantly on recommendations from the President's Council on Environmental Quality, as well as additional

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[3] U.S. Department of the Interior, *The National Estuarine Pollution Study,* Federal Water Pollution Control Administration, 1969.

[4] U.S. Department of the Interior, *National Estuary Study,* U.S. Fish and Wildlife Service, 1970.

ideas from S. 638 and S. 992, proposing a National Land Use Policy Act. The committee reported the bill favorably on September 30, 1971, with amendments. On March 14, 1972, the bill was recommitted to the Committee for changes, then ordered favorably reported as an original bill, S. 3507, on April 11, 1972. On April 25, 1972, the bill was debated and passed by the Senate on a rollcall vote, 68–0. On August 2, 1972, the bill was considered and passed by the House. Conferees approved a final version of the bill which was agreed to by the House and Senate on October 12, 1972, and signed by the President on October 28.[5]

Hopes for an early start in development of State coastal zone management programs after the act's signing were not to be realized. In fact, it was not until December 1973 that National Oceanic and Atmospheric Administration received funding; the previous year's activities were limited by the Office of Management and Budget to setting up a small administrative apparatus in Washington with "reprogrammed" funds from other functions within National Oceanic and Atmospheric Administration. The Nixon Administration did not ask for funding of the program for fiscal year 1974, ostensibly because its leaders preferred to wait for passage of a National Land Use Planning Act, which could include coastal areas. This position became awkward when the Administration decided not to continue its support for such legislation. Considerable pressure from the Congress (including this Committee) and the interested public, led to a request for supplemental funds for the coastal zone management program. The supplemental appropriation was approved in late 1973.

The coastal zone management program has had an auspicious beginning, and has been ably administered by the National Oceanic and Atmospheric Administration. By early 1975 all 30 eligible States and three of the four eligible territories were receiving Federal program development grants under section 305 of the act and were matching the Federal contributions on a one-third State, two-thirds Federal basis. The virtually total participation by coastal States is extremely gratifying to the Committee, since coastal zone management is a purely voluntary program and requires both money and effort from the States. It appears that the States have a keen awareness of coastal problems and the need for sound management of coastal resources, and are willing to take positive action in behalf of coastal protection and development along the lines intended by Congress. The Committee believes that the participating States are making good progress toward preparation of coastal resource inventories, comprehensive management plans, and the creation of legal and administrative means to implement their plans. Federal grants given to coastal States under the Coastal Zone Management Act during fiscal years 1974 and 1975 are shown in table 1.

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[5] One of the major areas of controversy within this period of legislative history was the debate on whether to assign responsibility to administer the act to the National Oceanic and Atmospheric Administration (NOAA), which had only recenly been created within the Department of Commerce, or to place it in the Department of the Interior. The Congress affirmatively assigned this program to NOAA, determining that it possessed the requisite oceanic, coastal ecosystem and coastal land use expertise to administer the act. Subsequent votes in the Senate on S. 632, the Land Use Policy and Planning Assistance Act, further established Congressional intent that coastal zone management programs be separate from the noncoastal land use programs proposed by that legislation.

TABLE 1.—COASTAL ZONE MANAGEMENT GRANT AWARDS

State	Federal share	Matching share	Total program
SEC. 305 (FISCAL YEAR 1974)			
Rhode Island	$154,415	$77,208	$231,623
Maine	230,000	115,000	345,000
Oregon	250,132	169,567	419,699
California	720,000	928,653	1,648,653
Mississippi	101,564	50,782	152,346
South Carolina	198,485	100,015	298,500
Washington	388,820	194,410	583,230
Massachusetts	210,000	105,000	315,000
Ohio	200,000	166,300	366,300
Alaska	600,000	360,000	960,000
Texas	360,000	191,648	551,648
Wisconsin	208,000	146,000	354,000
Pennsylvania	150,000	75,000	225,000
Minnesota	99,500	49,750	149,250
Michigan	330,486	203,961	534,447
Maryland	280,000	185,765	465,765
Connecticut	194,285	130,359	324,644
New Hampshire	78,000	39,000	117,000
Hawaii	250,000	125,000	375,000
Georgia	188,000	115,400	303,400
Delaware	166,666	83,334	250,000
Florida	450,000	236,000	686,000
Alabama	100,000	50,000	150,000
North Carolina	300,000	200,000	500,000
Illinois	206,000	103,000	309,000
Louisiana	260,000	134,090	394,090
Puerto Rico	250,000	125,000	375,000
New Jersey	275,000	137,500	412,500
Total	7,199,353	4,597,742	11,797,095
SEC. 312			
Oregon	823,964	823,964	1,647,930
SEC. 305 (FISCAL YEAR 1975)			
Alabama	120,000	60,000	180,000
California	900,000	450,000	1,350,000
Georgia	349,250	191,745	540,995
Guam	143,000	71,500	214,500
Hawaii	400,000	200,000	600,000
Illinois	384,000	192,000	576,000
Indiana	220,000	110,000	330,000
Louisiana	342,000	171,000	513,000
Maine	328,870	164,435	493,305
Maryland	400,000	208,600	608,600
Massachusetts	382,000	204,812	586,812
Michigan	400,000	200,000	600,000
Minnesota	150,000	75,000	225,000
Mississippi	127,038	63,519	190,557
New Hampshire	120,000	60,000	180,000
New Jersey	470,750	235,375	706,125
New York	550,000	275,000	825,000
North Carolina	503,000	251,500	754,500
Oregon	298,811	154,406	453,217
Pennsylvania	225,000	112,500	337,500
Puerto Rico	350,000	175,000	525,000
Rhode Island	304,440	152,227	456,667
South Carolina	230,000	117,794	347,794
Texas	620,000	448,401	1,068,401
Virgin Islands	90,000	45,000	135,000
Virginia	251,044	125,522	376,566
Wisconsin	340,600	171,700	512,300
Total	8,999,803	4,687,036	13,686,839
SEC. 312			
Georgia	1,500,000	1,500,000	3,000,000
Oregon	325,000	1,832,000	2,157,000

In early 1975, the State of Washington became the first State to apply for the Secretary of Commerce's approval of a coastal zone management program. After approval, States become eligible for implementation grants under section 306 of the Act. Just as important,

however, from the standpoint of effectiveness of State programs, is the fact that secretarial approval brings into force the "Federal consistency" provision of the act, contained in section 307(a)(3). That provision gives coastal State governors the right to determine, in advance, whether a proposed Federal license or permit for an action affecting the State's coastal zone, will be "consistent" with the State coastal zone management program. In most cases—except in matters of overriding national interest—the Federal license or permit cannot be granted unless the governor certifies its consistency. This new State authority may be the single greatest incentive for State participation in the coastal zone management program. The Committee anticipates it will have its major impact in guaranteeing effective State participation in decisions regarding energy facility siting, Corps of Engineers dredge-and-fill permits, Federal activity in the Great Lakes, and—as described in detail below—offshore oil leases.

In the spirit of equitable balance between State and national interests, the act also contains a "national interest" provision. That part of the law requires States, in developing coastal zone management programs, to give "adequate consideration to the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature."

As often happens with new laws and programs, the Coastal Zone Management Act and the related State programs remained unappreciated by the public at large until a crisis brought it forcefully to people's attention. The catalytic crisis in this case was the energy problem, with its pressures for development of new sources of supply. The coastal zone has always been a favored spot for the location of powerplants (both nuclear and fossil fueled), oil refineries, and staging areas for offshore oil development. But it was not until the Arab oil embargo occurred, exactly a year after passage of the Coastal Zone Management Act, that State governments realized the intensity of these developmental pressures on the coastal zone. There had been earlier indications of future energy-related developments,[6] but the energy crisis seemed suddenly to shorten the time available to States to plan for and cope with developmental pressures. Governors and other State-level leaders expressed the frustration they felt at the prospect that irrevocable Federal decisions affecting their coastal zones would be made before the States had had time to develop management programs.

It was in the context of prospective OCS oil and gas development that President Ford endorsed the Coastal Zone Management program during a November 1974 White House meeting with governors of coastal States. On that occasion the President also proposed—and Congress subsequently granted—a $3 million supplemental appropriation for fiscal year 1975, added to the program's $12 million regular appropriation, to enable States affected by planned OCS leasing to speed their preparation for possible shoreside impacts of these activities.

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[6] For example, the 1969 Stratton Commission report noted that the offshore oil and gas industry was "growing rapidly" and was likely to expand its operations to the Outer Continental Shelves off the Atlantic and Alaskan coasts. Further, the report noted that electric power production in the United States was doubling every decade, and with the advent of nuclear power, many sites near water would be needed. "An increasing number of plants will be located along the shoreline, competing for valuable land, warming the local waters, and posing major threats to the regional ecological balance," the report stated.

In his November 13 remarks, the President noted that States "have only begun to establish the mechanisms for coastal zone planning, and that activity must proceed rapidly." He went on to state, however, that he did not believe offshore leasing plans should be held up for completion of these programs.

The prospect of accelerated OCS oil and gas lease activity, along with growing energy facility requirements and the imminent construction of deepwater ports, add to the challenge of bringing rational management to the coastal zone. These probable events have therefore led directly to the Committee's present action to amend the Coastal Zone Management Act.

Oil and gas operations are not entirely new to California, yet Joseph Bodovitz, executive director of the California Coastal Zone Conservation Commission, testified before the Committee that:

> * * * the thing that makes planning in regard to the OCS oil so difficult is it is impossible to understand what the full ramifications are on the basis of anything we have received from the Interior Department * * *. It is just the uncertainty that makes this so exceedingly difficult to deal with.

Actual experience with offshore oil and gas development around the world takes such concerns well beyond the realm of abstraction. Along the coast of Louisiana, for example, 20 years of Federal OCS activities (and an additional 15 years of similar operations on State-owned offshore lands within three miles of shore) have resulted in the loss of an estimated 500 square miles of valuable wetlands.[7] For the most part, those lands have been dredged and filled to accommodate canals, pipelines, and other oil-related facilities.

Robert W. Knecht, assistant administrator of NOAA for coastal zone management, testified before the House Merchant Marine and Fisheries Committee about the Louisiana experience:

> The wetlands were destroyed in the name of oil and gas development in a day when we did not understand the value of coastal wetlands in terms of providing valuable nursery grounds, and the scars of that destruction remain there plainly visible.

Robert Bybee, operations manager of the Exploration Department of Exxon Inc., confirmed this judgment in testimony on April 30, 1975, before the Subcommittee on Oceanography of the House Merchant Marine and Fisheries Committee. He traced the development of the offshore industry this way:

> I think what you see in the Gulf of Mexico or the south of Louisiana was this imperceptible, almost, moving out of the highlands into the marshes and the estuaries, and then offshore, and in those days many of us were not thinking of the environment. And we pretty well did rape the land.

Mr. Bybee assured the subcommittee, however, that the industry now follows sound environmental practices which prevent similar occurrences.

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[7] Dr. Sherwood Gagliano, Center for Wetland Resources, Louisiana State University.

In addition to the visible ecological damage in Louisiana wetlands, other experiences in that State create concern in coastal areas facing oil development for the first time. For instance, 80 percent of all investment in Louisiana's new manufacturing facilities between 1938 and 1971 took place in coastal parishes (counties), reflecting support activities for offshore petroleum development. A total of $5 billion was invested in petrochemical industrial facilities in Louisiana's coastal zone during those years, with over 100 major petroleum and petrochemical plants placed in coastal parishes.[8]

A 1973 study done by the Baton Rouge-based Gulf South Research Institute, paid for with Louisiana State funds, attempted to assess the net impact of all these activities on Louisiana's fiscal position during 1972. Comparing tax revenues from oil-related facilities with costs incurred in providing public services and facilities for persons directly or indirectly involved in operating them (as well as their families), the study estimated that Louisiana had sustained a net loss of $38 million during 1972 stemming from federally licensed offshore oil and gas operations. Since completion of the study, both supporters and opponents of offshore oil development have cited it as evidence to bolster their viewpoints. The study has served to illustrate the point that States are likely to be significantly affected—economically and otherwise—by Federal leases for oil exploration and production on adjacent OCS lands. At the same time, it appears that methods for quantifying such effects are still at a relatively primitive stage. Critics have charged that the methodology used in the Louisiana study resulted in a serious understatement of Federal financial contributions toward the provision of public facilities and services, and that the employment multiplier used in the study also resulted in understatement of benefits. The study also fails to take into account some of the social and environmental costs which do not lend themselves easily to quantification.

In any case, it is clear that benefits to coastal States and localities from adjacent offshore development come primarily from whatever the State or municipality can capture in income, sales and property taxes covering corporations and individuals involved. A series of court cases, culminating in early 1975 with a Supreme Court decision in *United States* v. *Maine*, has determined that the Federal Government has sole control over resource development beyond the 3-mile offshore jurisdiction of the States. Consequently, under present law, the States have neither a major role in decisions to develop OCS resources nor a claim to the revenues they generate through lease bonuses and royalties.

It can be expected that sparsely populated areas which are subjected to rapid growth as a result of OCS oil and gas development will have a particularly difficult time coping with such drastic change and generating sufficient revenues to match the costs. Several regions near proposed offshore development—most notably Alaska, parts of New England and elsewhere along the Atlantic coast—are particularly fearful of this prospect.

One of the first such areas to experience coastal development related to offshore oil could well be Cape Charles, in coastal Northampton

[8] Marc J. Hershman, "Louisiana Wetlands Perspective," Louisiana State University School of Law.

County, Virginia. Even without knowing with certainty that oil and gas underlie the Atlantic OCS, the giant fabricating company of Brown & Root, Inc., of Houston has purchased a 2,000-acre tract of land at Cape Charles to build oil production platforms for the offshore.

The plant would have a major impact on rural Northampton County. A private study, done by Urban Pathfinders, Inc., for the county planning commission, predicted that the county population, without the Brown & Root facility, would decline from the present 14,000 to 12,700 in 1985. With the plant in operation, employing 1,500 persons directly and leading to 200 additional jobs, the county would grow to 16,000 persons in the same period.

The study foresaw serious short-term negative impacts as a result of the Brown & Root facility. The suddenness of the development build-up would lead to "widespread community disruption" involving housing shortages, inadequate school facilities, crippling employee losses to indigenous agricultural and fishing activities, and inadequate tax revenues to cover growing county expenses for public services and facilities during the next 5 to 10 years. On the other hand, the Urban Pathfinders study predicted that the net long-term impacts on the county would be beneficial, if careful planning were done with the full participation of Brown & Root itself.

The Gulf of Alaska has been designated by the oil industry as the most attractive frontier of the OCS for future exploration. The U.S. Geological Survey estimated in March 1974 that up to 18 billion barrels of oil and 90 trillion cubic feet of natural gas may underlie the Federal lands in the Gulf of Alaska. A series of discoveries would have a major impact on the communities along the Alaskan coast. In addition, the special requirements of operating in adverse weather conditions and thousands of miles from the ultimate market for the oil will add to the burden Alaska must bear to support offshore oil operations.

There are signs, even before the first Federal lease sale is held off Alaska, that these impacts are beginning. Several oil companies have purchased tracts of land on the shore in the small community of Yakutat, which an Exxon spokesman described in 1973 testimony before the Council on Environmental Quality as "probably the most ideally located" place to serve as a staging area for Gulf of Alaska operations. Seismic vessels exploring the gulf have called at Yakutat for fuel, water and rest and recreation. Rumors of speculative land purchases abound, and local citizens report sudden increases in land values. But the major impacts can only be guessed at until post-lease exploration confirms or denies the USGS estimates of Gulf of Alaska reserves. The Exxon testimony elaborated on the likely extent of these impacts, in the event that substantial commercial quantities of oil and gas do, in fact, exist in the area:

> One of the most important secondary impacts on a wilderness environment such as that along the Gulf of Alaska would be the offices, warehouses, and living facilities of the resident employees and their families. . . . As production grows it would become necessary to have more and more personnel "on location" until within a year or so a sizable community would

develop near the producing area. If we keep our assumption of 200,000 barrels per day production as an example area, we could expect approximately 20 modest size business buildings, and 2 small hotels for temporary personnel and approximately 400 homes for the 600 people directly employed. . . .

Of course, new supporting services would go into the communities to serve the families of the employees, providing new jobs for those not directly associated with the industry. This could produce a community of nearly 2,400 people and the churches, schools, recreation and service buildings accompanying a small population center. Land use would be approximately 6 square miles. . . .

While larger, densely populated communities in other parts of the United States might welcome such growth and development wholeheartedly, Yakutat appears to have grave concerns about the possibility of growing from 600 residents, mostly Tlingit Indians, to 2,400 residents, with the Indian population receding to a minority position. The State of Alaska has offically expressed concern about the impact of oil- and gas-induced growth in Yakutat on the existing economic base, which includes fishing, timbering, tourism and recreation. The community anticipates a dilemma in the near future as it must decide whether to expand its geographic boundaries to increase the tax base sufficiently to finance the burgeoning need for goods and services. To do so would be to alter the character of the village and reduce the native population to a minority position, thereby almost certainly diluting the native character of the typical Yakutat lifestyle. This problem is unique to Yakutat but is illustrative of the special problems which may be found in virtually every State and locality facing OCS development. Planning at the State and local level appears to be the best mechanism for dealing with such anomalies, but Federal funding within the philosophy and guidelines of the Coastal Zone Management Act can make the financial difference between feasiblity and infeasibility of such planning.

A private consulting firm, Mathematical Sciences Northwest, Inc., (MSNW) of Bellevue, Wash., is completing a detailed "Social and Economic Impact Study of Oil-Related Activities in the Gulf of Alaska." The study was financed by the Gulf of Alaska Operators Committee, which is a group of oil companies who are anxious to begin exploring and developing the gulf. The MSNW study has examined a range of possibilities, from a total absence of oil discoveries in the gulf (which it considers unlikely) to the discovery of 10 major oilfields with an output of 1.5 million barrels a day by 1985 (which, in the study's view, is also improbable). The base case used in the draft MSNW study, therefore, is a middle ground:

Initial discovery during 1977;
Five major fields discovered eventually;
Peak production of 550,000 barrels per day in 1985;
Use of two shore bases to support offshore activities;
Construction of pipelines to two marine terminals;
Shipment of crude from these terminals to markets in Lower 48 States;
No liquid natural gas or petrochemical developments in Alaska.

Cumulative employment estimates in the draft MSNW base case are as follows:

1976:	
Direct	291
Indirect	425
Total	716
1980:	
Direct	1,486
Indirect	2,170
Total	3,656
1985:	
Direct	886
Indirect	1,294
Total	2,180

If all new employees were immigrants to the area, and if most of them (both permanent and temporary) brought families with them, the cumulative population increases in the principally affected communities along the coast would be:

1976	1,396
1980	7,232
1985	4,426

In fact, however, MSNW considers it unlikely that all new employees will be immigrants, since many construction workers may seek OCS-related work after completion of the Alyeska pipeline. Temporary workers traditionally do not take dependents along on work assignments. Therefore, a more realistic estimate of the cumulative population increases might be about half of the above figures.

Although the numbers themselves do not appear enormous, they represent major impacts on small communities like Yakutat and Cordova, which MSNW sees as the likely sites for onshore support bases.

The draft MSNW report recognizes the dilemma that States and municipalities face in trying to cope with such impacts. The problem, in most cases, boils down to money and time. The draft report describes the financial problems involved in providing public services and facilities to meet growth impacts:

> The ability to provide the necessary incremental social services, either at the local or the state levels, is clearly a function of the financial resources available and the institutional constraints governing the responding agencies. The major sources of revenue of the communities are the real and personal property taxes and local sale taxes. In addition, the communities can issue both general obligation and revenue bonds.
>
> * * * Obviously, a city like Yakutat with an annual budget of $95,000 and a property tax base (assessed value) of $554,968 does not have the necessary fiscal capability. Even though other cities have larger tax bases, all face the same dilemma. The social capital required to serve a large population must be in place at the point in time when the demand arises. Therefore, actual social investment must be made in advance of *potential* revenues. In addition, sufficient investment to meet the

peak load rather than average demand is required. Given likely fluctuations in the (temporary) population, the result is excess capacity after the peak has passed. If this excess capacity is financed from local sources, per capita capital costs incurred by the permanent population must rise.

The report concludes that Federal funds offer the only real hope for communities to have the necessary financial resources and the proper time:

> Because of the uncertainties associated with the magnitude and timing of future tax receipts generated by the OCS-related economic activities, it is not clear how much and when public investment must be made by both the municipalities (and/or boroughs) and the State. Therefore, Federal fiscal support in the form of bonus and royalty revenue sharing or general or categorical impact funds is necessary. These funds should pay for both the additional capital requirements demanded, as well as the planning processes which determine their magnitude and allocation in time and space.

In the Committee's opinion, the latter approach—categorical impact aid, rather than bonus or royalty revenue sharing—is the only way to ensure that the funds will go where they are needed, when they are needed, and will be used for planning for and ameliorating impacts.

Studies of hypothetical future impacts of an unknown quantity of oil and gas development are, as MSNW acknowledges in its draft report, imperfect tools for forecasting actual events. The MSNW report itemizes the factors which affect the magnitude and duration of the social and economic impacts which Alaskan coastal communities will experience:

- The intensity of exploration activities.
- The proven oil and gas reserves discovered.
- The total quantities and rates at which oil and/or gas will be produced.
- Whether petroleum is exported in crude form or will be transformed prior to shipment.
- Whether natural gas, when produced, will be exported from Alaska in liquid form or will be further transformed into petrochemicals.
- How many coastal communities will become onshore support bases and whether major onshore facilities will be constructed there or in presently uninhabited areas.
- The rate at which the Alaskan economy can grow in real terms in order to provide the additional goods and services demanded as a result of the increased economic activities induced by the OCS development.
- The additional revenues which will accrue to local, regional, and State governments, and the increased induced demand for public services.
- Finally, and certainly of major importance for determining the types and duration of short- and long-term social and economic impacts on coastal communities and the rest of Alaska, are the leadtimes, and the human and capital resources available to local, State, and Federal planning bodies and the oil companies.

Until such "factors" become realities, and "assumptions" become events, State and local governments must continue to rely on theoretical possibilities and on extrapolation from experiences in other areas. Even studies of past experience—as the Louisiana study shows—may have serious shortcomings. But a close look at experience elsewhere does provide the best information available in advance of actual resource discoveries in new areas. For this reason, several staff members of the Committee's National Ocean Policy Study, the Congressional Office of Technology Assessment, and the Coastal Zone Management Office of the National Oceanic and Atmospheric Administration sought such information in 1974 along the Scottish coast of the North Sea. The first discovery of offshore oil in the British sector came in late 1970, and actual production of that oil is only now beginning. Nonetheless, the coastal impacts of developing offshore fields in the North Sea have already been substantial. Many of these effects were described in the committee's publication, "North Sea Oil and Gas: Impact of Development on the Coastal Zone," which was published in October 1974. The report indicated that direct employment in oil-support activities in northeast Scotland grew from 2,665 to 11,275 during the short period between December 1973 and March 1974. Local efforts to plan for this explosive growth have not always been successful. For instance, one platform fabrication plant estimated in advance to employ 600 persons actually employs 3,000 in peak periods.

"Shortages of housing, skilled labor, berths in harbors, and equipment have had an adverse impact on some of the older established industries," the report found.

The city of Aberdeen, now sometimes called the Houston of the North, has experienced rapid growth because of oil. One consequence of this growth has been skyrocketing prices for land. During the last 4 years, the NOPS study found, the price of industrial land with water and sewer service in the Aberdeen area rose from $7,200 to as much as $96,000 per acre.

In the remote and sparsely settled Shetland Islands 200 miles off the north coast of Scotland, the proposed site for a deepwater tanker port to handle North Sea oil, the NOPS investigation found a near doubling of population to be likely. The island county planners had predicted a very modest growth from 17,327 persons in 1971 to 17,900 by 1991 before knowing about the oil. Now, it is expected that the population will reach 30,000 by the early 1990's.

The Shetlands represent a unique study of how one remote area has dealt with the prospect of sudden population growth, new demands for municipal services, and intrusion of a new industry into a rural community. Shetland planners adopted a plan to contain onshore development at one site only. They succeeded in acquiring needed information about industry requirements, took action to inform the public about the needed facilities, and gained significant powers through parliamentary legislation, thus giving themselves the tools they needed to deal effectively with their new neighbors, the offshore petroleum industry.

A second study of the Scottish experience with offshore oil was carried out by Pamela and Malcolm Baldwin under the auspices of the Conservation Foundation and published in early 1975. Called "Onshore Planning for Offshore Oil: Lessons from Scotland," the Foundation report found the Scottish situation more likely to parallel

events in the so-called frontier areas of the American OCS than the developments in the Gulf of Mexico. This conclusion stemmed from the fact that Alaska and Atlantic oil operations, like those in the North Sea, will represent the entry of a wholly new kind of industry in some areas. Furthermore, a rapid buildup to a high level of production—assuming success in discovering oil or gas—will be required in the new areas, as it is in the North Sea, in order to meet today's energy needs and to reduce reliance on imported oil. Finally, the severe weather conditions of the North Sea closely resemble those in the Atlantic and the Gulf of Alaska; these require new technologies which, in turn, require new types of onshore facilities.

The Conservation Foundation report found that the most noticeable impacts in Scotland have been the result of support industries—such as oil production platform fabrication—rather than the oil industry's own operations. Employment and activity levels in these support activities peak even before oil production begins. Construction of any sort is a labor-intensive activity, and massive construction activities involving platforms, pipelines, tanker terminals, and refineries—not to mention schools, houses, offices, roads and other public facilities—bring thousands of workers into areas experiencing oil development. When this boom is over, an early "bust" may follow. Shrinkage of population and job opportunities also requires planning and management.

Scotland, the Foundation report pointed out, enjoys the advantage of many years' experience with comprehensive land use planning mandated by the 1947 Town and Country Plannig Act. The only comparable law in the United States, the authors noted, is the Coastal Zone Management Act. The report continued:

> Whether onshore facilities—such as platform construction yards, refineries, supply bases, tanker terminals, and pipeline landfalls—occur in presently industrialized and heavily populated areas, or alternatively in unspoiled rural regions, depends largely on how States and communities plan and control their coastal zones. Ideally, such planning should begin before Federal offshore leasing. Coastal land use controls should be ready for application when oil or gas is discovered, and should include suitable opportunities for public participation.
>
> To permit such control, advance surveys of existing coastal land use patterns—with particular attention to sites likely to attract oil facilities—will be necessary * * * Virtually all the coastal States are surveying their coastal zones with Federal funds made available under the Coastal Zone Management Act of 1972.

The Foundation report recognized, however, that planning alone, without tangible assistance in coping with onshore impacts of offshore oil, cannot relieve the burden created by federally licensed OCS development:

> State and local governments bear the greatest burdens of public expenditures associated with offshore oil development. They should receive enough of the economic benefits to offset at least the costs of accommodating support facilities and providing infrastructure needs.

It is to meet these two essential needs—for planning and for coping with impacts—that the Committee provides in S. 586 for the establishment of a Coastal Energy Facility Impact Fund. That fund, described later, actually goes beyond OCS development impacts to cover similar impacts from other energy-related activities in the coastal zone such as deepwater ports, electric generating plants, oil refineries, and the like, when these facilities are covered by Federal licensing or permitting processes.

On the issue of Federal-State relations regarding OCS exploration and development, the National Advisory Committee on Oceans and Atmosphere (NACOA) makes the following recommendations in its draft 1975 report [9] to the President and to Congress:

> The Coastal Zone Management Act of 1972 should be amended "* * * to assure reasonable State input to Outer Continental Shelf development plans and production, to expedite State management planning related to the consequences of offshore oil and gas development, to assure that proposed Outer Continental Shelf exploration and development programs are fully consistent with State plans, and to provide adequate information and technical data to assist in coastal zone planning and decisionmaking."
>
> The Act should be further amended to "* * * authorize and provide financial assistance to States to enable them to study, assess, plan effectively with respect to the onshore impact of Outer Continental Shelf oil and gas development and to encourage interstate cooperation and regional planning."

This Presidential advisory panel, composed of leaders in business, industry, science, academia and State and local government, also states in its draft report that—

> Significant initial costs will accrue to the States as a result of the exploitation of oil and gas resources offshore. There are "front end" costs associated with the activity required of the State before lease sales take place and continuing through development. Then, depending on the extent of the offshore exploration and production activity, new population groups may be brought to relatively undeveloped areas with resultant costs for roads, schools, police and fire services, water, sewer, et cetera. These, too, are costs which are borne by State and local governments.

NACOA also notes that some, but not all, costs for such services are likely to be recovered by reasonable and usual taxes, and that States are justified in seeking Federal aid to offset the net adverse costs.

Virtually all coastal States—including those bordering on the Great Lakes—face the prospect of continuing pressure for energy facilities in or near their coastal zones in the future. Energy is needed where people are, and people, increasingly, are in the coastal zone. As men-

[9] "A Report to: The President and the Congress," draft Fourth Annual Report, National Advisory Committee on Oceans and Atmosphere, June 6, 1975.

tioned earlier, coastal areas are also particularly conducive to the siting of large-scale industries which require access to cooling water, as do both nuclear and fossil-fueled powerplants.

A report of the Great Lakes Basin Commission in February 1975, pointed out:

> All of the Great Lakes States are aware of the importance of the powerplant siting issue, and are in various stages of resolving it * * * powerplant siting is an extremely important issue in coastal zone management in the Great Lakes. The States involved in coastal zone management in the Great Lakes are aware of the importance of this problem and fully intend to address it in their management program formulation.

In reporting on the role of energy facilities in California's coastal zone, that State's Coastal Zone Conservation Commission—established by voter referendum in 1972 and now the recipient of a Federal coastal zone management grant—found that 90 percent of the total petroleum refining capacity of that State is located within 10 miles of the coast. New refineries would require as much as 1,000 to 1,700 acres each for actual use and a like amount of land for a buffer area.

The California study also described the impacts of refineries on fresh water supplies and on air quality. Further, a new refinery with a modest capacity of 100,000 barrels per day would result—according to an Army Corps of Engineers study cited in the California coastal zone report—in an inflow of 1,100 workers, a population increase of 3,900, an indirect employment increase of 850 and an additional 850 students in public schools.

The foregoing examples of coastal impacts from offshore oil development and energy facilities, coupled with the excellent start achieved by the States and the NOAA office coordinating the coastal zone management program, have led the Committee to believe that an expansion of that program offers the best possible mechanism for dealing with such impacts. S. 586 provides the necessary amendments to assist the States with planning for and coping with OCS and energy impacts.

Description of Key Provisions

1. "*Federal Consistency*"

The first amendment contained in S. 586 which seeks to strengthen the States' ability to cope with OCS impacts is found in the "Federal consistency" clause (section 307(c)(3)). As presently written in the law, this provision gives coastal State governors the opportunity to determine whether the granting of specific Federal licenses or permits would be consistent with State coastal zone management programs. The Committee's intent when the 1972 Act was passed was for the consistency clause to apply to Federal leases for offshore oil and gas development, since such leases were viewed by the Committee to be within the phrase "licenses or permits". However, since the provision does not become effective until a State has an approved coastal zone management program pursuant to section 306 of the Act, there has been no court test of its applicability in explicit terms. The Commit-

tee has included in S. 586 the addition of the word "lease" wherever "licenses or permits" are mentioned. In practical terms, this means that the Secretary of the Interior would need to seek the certification of consistency from adjacent State governors before entering into a binding lease agreement with private oil companies. Most States will probably not be able to exercise this right before 1977, when the bulk of State programs are expected to reach the point of applying for the Secretary of Commerce's approval. The leverage they will gain over Federal activities affecting their coastal zones at that point is a powerful incentive for completion of the State program development process.

The National Governors' Conference endorsed the applicability of the Federal consistency clause to OCS oil and gas development in a resolution which passed on February 20, 1975. That resolution said, in part:

> Development, production, transportation and onshore facility plans should be submitted for approval to the Department of the Interior, but only after the potentially affected coastal States have reviewed such plans in order to insure consistency with State coastal zone management plans and other applicable State statutes and regulations. Since the plans should be reviewed for consistency with State coastal zone management programs, the Governors believe that adequate time, as determined by Congress, should be afforded States to develop such coastal zone programs before any OCS production commences.

In that same resolution, the governors addressed the need for Federal funding for onshore planning and impact mitigation and of the net adverse financial impact that many States and localities may anticipate as a result of OCS development. The resolution supports development of offshore energy resources provided such development is conducted in the context of sound environmental and coastal zone management policies and practices.

2. *Coastal Energy Facility Impact Program*

The Coastal Zone Management Act established the goal of, and the initial framework for, wise management of the coastal zone. The Act states:

> . . . there is a national interest . . . in the increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal . . . [resulting in] loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, [and] decreasing open space for public use. . . .

From the Committee's view, it is most desirable to assist the States in focusing on problems related to: (1) energy facility planning, including the specific coastal impacts associated with both fossil fuel production and electric power generation, (2) energy and other materials demands required to accommodate projected growth, (3) hous-

ing developments and their impact, (4) the impacts of increased recreational demands, (5) the impacts, such as environmental load, produced by industrial growth, and (6) alternative choices to minimize adverse impacts.

S. 586 contains several important options for States dealing with coastal zone impacts of OCS oil and gas and other energy facility development. The core of the Committee's approach to the coastal impacts problem is found in section 308—as redesignated—which establishes a Coastal Energy Facility Impact Fund. The fund, authorized at $250 million annually, is to be used for planning grants and for amelioration and compensation grants or loans to States facing coastal impacts from OCS operations or other major energy facilities. The Committee believes that the key feature of the fund is its close relationship to the existing coastal zone management program created by the 1972 act. Without this tie to coastal planning as a whole, an impact fund could create counterproductive pressures on coastal States and municipalities by encouraging the provision of public facilities which might not otherwise fit in with comprehensive coastal zone management plans developed by the State. Furthermore, if the impact fund were to be separately administered and funded, highly undesirable duplication and wasteful inefficiency would almost certainly result.

The impact fund created in section 308 is designed to serve two distinct purposes. The first is planning—the preparation of studies and plans which determine what impacts are likely to occur and what measures need to be taken to minimize them. In addition a State is expected to reconcile such impact planning with the ongoing efforts of the State to develop and/or operate its own coastal zone management program. Section 308(a) sets aside 20 percent of the fund, up to $50 million, for such studying and planning. It is expected that States will begin the process of dealing with OCS and energy facility impacts by applying for these planning funds, and that they will use them for information-gathering and quantitative studies which are a prerequisite to more tangible measures such as providing actual public facilities or services.

The primary purpose of such planning would be to develop the information which is pertinent to the policy determinations in formulating coastal zone management plans, and in determining eligibility for further grants or loans as described below.

The planning procedure may include but not be limited to, the following steps in achieving this purpose:

1. Project the size and distribution of population growth and economic expansion in the selected areas. This step should draw upon existing projections made by Federal and State agencies, academic institutions, and industrial planners.
2. Develop an appropriate checklist of the political, social, physical, biological, and economic impacts that may arise.
3. Use the checklist and growth projections to determine the magnitude of the impacts.
4. Identify areas in which critical problems are foreseen.
5. Determine the effects on the State's coastal zone which will result from projected activities in other portions of the State or other relevant adjacent areas.

6. Identify areas where new or improved methodologies are needed to assess the impact upon population and economic activity in a specified geographic area.

7. Identify areas where needed data is lacking and methods whereby these gaps can be filled.

The States of California and Alaska, and the entire group of eastern seaboard States, could undoubtedly make immediate use of such planning funds for assessing the likely impacts of planned OCS leasing on their individual State coastal zones, since the Interior Department plans to lease offshore lands in all three of these areas for the first time within the next year. The States are likely to have a continuing need for planning funds under this subsection as OCS oil and gas exploration gets underway and the results begin to be known. Studying and planning for coastal impacts of OCS development are continuous processes which cannot be completed before extensive information about the offshore resource base is available.

The Committee noted correspondence from Representative Leonor K. Sullivan, chairman of the Committee on Merchant Marine and Fisheries, U.S. House of Representatives, and Representative James R. Grover, ranking minority member, to the Technology Assessment Board, U.S. Congress, dated September 18, 1974, which stated:

> We ignore these potential problems at our peril, just as we have in the past. If, on the other hand, we attempt to understand them and the factors which create them, it is possible that we may be able to develop methods of avoiding or minimizing their adverse impacts. It was with this objective in mind that the Congress enacted the Coastal Zone Management Act . . .

States may find, as a result of studies conducted with funds made available under the planning component of the Coastal Energy Facility Impact Fund, that offshore oil development and/or energy facilities will not, in fact, cause adverse impacts in their coastal zones. In that case, the fund will have served the useful but limited purpose of satisfying the State in question that such is the case. In other circumstances, however, States may be able to detect and quantify past, present or anticipated adverse impacts resulting from OCS activities, powerplants, or other energy-related developments. If so, these States will undoubtedly wish to take advantage of the additional funds authorized for the purposes set forth in section 308(b).

Section 308(b) of S. 586 anticipates two possible sets of circumstances: one involving temporary adverse impacts, the other involving net adverse impacts over the life of the energy facility or development causing the impacts. The former case would make a State eligible for a loan; the latter would meet requirements for a grant. In either case, the impacts in question must be the result of a Federal license, lease or permit for exploration, development or production of energy resources, or for the location, construction, expansion, or operation of an energy facility. The impacts must occur within the State's coastal zone, although the activities causing the impacts may be outside the coastal zone, on either land or water.

In fact, it may often be impossible to determine in advance whether adverse impacts will be temporary or permanent. Where temporary

impacts are certain and permanent impacts possible, impact funds may be awarded as a loan with the stipulation that changed circumstances and additional information obtained at a future time will entitle the Secretary of Commerce to forgive all or part of the loan if permanent net adverse impacts become apparent. The case of the proposed Brown and Root platform fabrication plant at Cape Charles, Virginia, described earlier, appears to be exemplary of the circumstances in which a loan might be given.

The bill specifies that impact grants will be made only when a State can demonstrate that an energy facility or energy resource development can be expected to produce a net balance of adverse impacts over the course of its operational lifetime. Demonstration of net adverse impacts is required in recognition of the fact that such a facility or development generally can be expected to produce positive benefits, such as increased tax revenues and assessed property values from land-use changes and population increases, as well as negative effects, such as environmental damage or increased demands on public facilities and services. The purpose of the grant provision in the impact fund is to offset any net amount by which the expected or actual costs exceed the expected or actual benefits.

A substantial but oft-criticized body of experience in determining the positive and negative impacts of major facilities has been developed in the application of cost/benefit analysis to planning public works projects. In developing criteria for eligibility for impact grants and loans, the Secretary should draw upon the applicable portions of this experience, making appropriate extensions and modifications where needed to deal with the full range of potential costs and benefits—including social and environmental costs often neglected in cost/benefit analyses—associated with energy facilities. In addition, the Secretary should give consideration to the tax effort of each applying State.

The Committee is particularly anxious to insure that the Coastal Energy Facility Impact Fund will be administered in harmony with the larger purposes and spirit of the Coastal Zone Management Act. Thus, States must satisfy the Secretary of Commerce that they have met two requirements in addition to documenting adverse impacts: first, that they are engaged in comprehensive coastal zone planning and management, and second, that they will use the impact fund grants and/or loans which they receive in a manner that is consistent with the goals and objectives of the Act and with any management programs which they themselves develop pursuant to the Act.

States may satisfy the first requirement in one of three ways: (1) by receiving a program development grant pursuant to section 305 of the Act and making good progress toward program development; (2) by making good progress in a similar development program under State auspices; or (3) by having an approved coastal zone management program pursuant to section 306 of the Act. The Committee hopes that the eligible coastal States will continue their present involvement in the Federally funded coastal zone management program and will receive Secretarial approval for their individual programs, particularly in light of the control they will gain over their coastal zones by application of the "Federal consistency" clause of the Act, described above.

The second requirement is designed to prevent the impact fund itself from becoming an instrument of adverse impacts in the coastal zone. The Committee believes it will also prevent the use of Federal funds for frivolous purposes, not related to Congress' intent to ameliorate adverse coastal impacts of energy resource development and/or energy facilities. An unfettered revenue-sharing program, derived from a certain percentage of Federal royalties and bonuses received from OCS leases, would lack this assurance of fiscal responsibility.

S. 586 leaves to the Secretary of Commerce the important task of developing criteria and regulations for determining eligibility for grants and loans under the impact fund. Included in the Secretary's task will be the development of methodolgies for determining the presence or absence of "temporary adverse impacts" and "net adverse impacts," and for measuring the magnitude of these impacts. Also included will be an evaluation of the various purposes to which Federal loans or grants might be put. The Secretary is directed to consult with a range of public and private interest groups in the development of criteria.

In actually evaluating specific applications for grants or loans under the Coastal Energy Facility Impact Fund, the Secretary will be required to consider—and, it is hoped, in most cases follow—the recommendations of a Coastal Impacts Review Board. The board is to have representation from State governments as well as Federal agencies. Inclusion of the review board in S. 586 resulted from an amendment proposed by Senator Stevens during the Committee's deliberations.

Recognizing that Federal OCS oil and gas development and energy facilities—and their resulting adverse coastal impacts—predate the present action to provide impact funds, S. 586 contains a provision (section 308(g)) permitting retroactive compensation for such impacts. States wishing such retroactive grants or loans must meet the same eligibility requirements as those seeking amelioration of present or future impacts. Retroactive compensation is permitted only during the first 5 years after enactment of section 308(g). The Committee believes that the States must bear the burden of proving past impacts for retroactive compensation. Existing studies do not appear sufficient for this purpose.

The Committee does not wish to create a bureaucratic maze or windfall profits for consulting firms in the process of requiring documentation of adverse impacts as a prerequisite for eligibility for grants or loans under the impact fund. To permit the States to group together the cumulative impacts of smaller magnitudes and avoid documentation of each and every one, S. 586 assumes that a valid claim of adverse impacts could be made by every State which is adjacent to OCS lands where oil or gas is produced, or which is permitting oil or gas produced on OCS lands to be landed in the State's coastal zone, or both. Such States shall, under the provisions of section 308(k), be eligible to receive an automatic annual grant of an amount tied to (1) the volume of oil or gas landed in the State and/or produced on adjacent OCS lands; and (2) the number of years these activities have occurred and, by assumption, have affected the State's coastal zone. The formula for allocating automatic grants is related to the number of barrels of oil (or the natural gas equivalent) produced and/or landed each day, multiplied by the number of days in the

year. It is important to note, however, that the funds themselves are derived from the general Treasury, not from OCS royalty and bonus revenues specifically. This means that they are subject to the normal budgetary and Congressional appropriation processes, as revised under the Congressional Budget and Impoundment Control Act of 1974.

The declining allocation formula under section 308(k) applies to the number of years during which any oil or gas exceeding a rate of 100,000 barrels per day is landed in a State or produced adjacent to that State. All oil covered in each State is calculated at the same rate, in any given year, starting with the first year of production or landing above the minimum level. If a State exceeds a landing rate or adjacent production rate of 1 million barrels daily, the oil or gas in excess of that rate is not calculated in the automatic grant formula for that year.

Some States may serve as landing points for OCS oil or gas even though they themselves are not adjacent to OCS lands where energy resources are being produced. Similarly, States may be adjacent to OCS development activities, the crude product of which may be landed in another State. In either of these cases, the affected States will be eligible for automatic grants under section 308(k) in an amount half as great as that to which they would be entitled, according to the allocation formula, if the oil or gas had been produced on OCS lands adjacent to the State and also landed in that State. In the event that the State adjacent to production has exceeded its one-million-barrel-per-day limit, but the landing State has not (or vice versa), the State within the limit remains eligible for its half of the automatic grant.

Like the grants and loans made available under the Coastal Energy Facility Impact Fund, the automatic grants must be used to ameliorate adverse impacts resulting from energy resource development and/or—in this case—"related" energy facilities. $50 million annually is authorized for automatic grants through fiscal year 1978, after which the authorization is to be sufficient to provide all eligible States with grants at the formula rate.

Senator Stevens proposed, and the Committee adopted, a third option for States seeking funds to cope with onshore impacts of offshore oil or other energy-related facilities. Section 319 authorizes the Federal Government to guarantee State or local bonds which are issued for the purpose of constructing public facilities or taking other measures to ameliorate adverse impacts in the coastal zone resulting from energy developments. This option is attractive because it encourages States and localities to use traditional bonding mechanisms, with the additional security of a Federal guarantee, and does not require Federal funds except in the (hopefully) rare instance of default. States which are receiving automatic grants under section 308(k) are directed to designate the proceeds of those grants, or a portion of them as needed, to the repayment or retirement of such bonds.

The three foregoing options for States coping with coastal zone impacts of energy development—impact funds, automatic grants and bond guarantees—are, the Committee believes, a comprehensive and responsible approach to meeting legitimate coastal State concerns. During joint hearings with the Committee on Interior and Insular Affairs on Outer Continental Shelf development and coastal zone management in spring 1975, numerous witnesses expressed the view that

such an approach was crucial to successful provision of needed energy supplies for the Nation in an environmentally sound manner. For example, Robert M. White, Administrator of the National Oceanic and Atmospheric Administration, testified:

> [The coastal States] feel that while the benefits of OCS production are enjoyed by all citizens in all parts of the country, the disadvantages are localized and therefore their elimination is the responsibility of all.

Broad support for the committee's approach was offered by Gov. Thomas Salmon of Vermont, who chairs the National Governors' Conference's Natural Resources and Environmental Management Committee:

> I sense that what the States want, the States think they deserve, are payments or reimbursements, particularly on the coast, to the extent of those amounts required in public expenditures to provide for the onsite component of Outer Continental Shelf development. . . . We are not talking about general revenue sharing in that context. We are talking about reasonable indemnification for actual cost as measured against a formula that this Congress is perfectly capable of approving. . . .

The concept of financial aid to the States also received support from the oil and gas industry and related industries such as offshore drilling firms. Alden J. Laborde, chairman of the board of Ocean Drilling & Exploration Co., said the following about assisting the States:

> I think basically it is only fair. There is no doubt the States have to make an accommodation for our activities. I think it is only fair they should enjoy some of the proceeds from this thing.

3. *Interstate Coordination*

A serious omission from the Coastal Zone Management Act of 1972 was the lack of any incentive or mechanism for States to take regional or interstate approaches to coastal management. Yet it becomes increasingly clear that one State's program may in itself affect other States. For example, New Jersey appears to be the recipient of several proposals for heavy industry on its coast as a result of its neighbor State of Delaware's outright prohibition against such industries in its own coastal zone. Furthermore, many coastal regions share common management challenges and could benefit from a coordinated approach. Such an approach to recreational development along the eastern shore of Delaware, Maryland, and Virginia could, for example, provide the best management program for the entire region.

S. 586 offers the needed financial incentives for States to "give high priority (1) to coordinating State coastal zone planning, policies, and programs in contiguous interstate areas, and (2) to studying, planning, and/or implementing unified coastal zone policies in such areas." (Section 309(a).) The bill gives the constitutionally required consent of the Congress for States to enter into interstate compacts or agreements for these purposes, and also provides for 90 percent annual

grants for interstate coordination. The grants must be used for purposes which the Secretary of Commerce finds to be "consistent with the provisions of sections 305 and 306" of the Coastal Zone Management Act.

Interstate compacts for coastal management could, the Committee believes, also serve as an important contact point among State and Federal officials on matters of mutual (or conflicting) interest. Thus the interstate compacts are "encouraged to establish a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone." (Section 309(c).) The matters of concern for interstate compacts might well include activities (such as offshore oil development) which actually occur outside the coastal zone itself but clearly have an impact upon it. Consultation with Federal officials will occur when State participants in such compacts request it. Federal officials directed to participate include the Secretaries of Commerce and the Interior, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency.

Formal interstate compacts require the approval of individual States to become fully effective. Recognizing that such approval may in some cases take several years, and that critical coastal problems cannot wait, S. 586 also provides funds for groups of States wishing to establish informal interim planning and coordinating entities for their coastal zones. These, too, may receive 90 percent Federal funding. This provision expires in 5 years, since that should be ample time for States to enact formal compacts.

Funds authorized for appropriation for interstate coordination in S. 586 total $5 million annually for 10 fiscal years.

4. *Research and Training*

The past 2 years' experience with the coastal zone management program has pointed up the need, both in the States and in NOAA's Office of Coastal Zone Management, for special funding devoted to augmenting the research and training capabilities related to the program. Experience in the 30 States and 3 territories participating indicates that it is difficult to obtain scientific and other research information in the short time frame needed by coastal program developers. One of the reasons for this difficulty is the limited number of staff people familiar with coastal ecology as well as with general planning concepts.

To alleviate these problems, the committee has adopted a coastal research and training assistance program in section 310 of S. 586. This provision would provide a $5 million annual fund for the Secretary of Commerce to use either within the Department, or cooperatively with other Federal agencies or with outside organizations. The aim is to provide information which is useful to many States, as well as to answer general coastal research and/or training needs.

Additionally, S. 586 would provide $5 million in research and training funds in the form of matching grants to State agencies charged with developing or implementing coastal zone management programs. These funds are to meet specific research or training needs of the States.

State program developers have found much of the current coastal research being conducted in universities and elsewhere involves long leadtimes and cannot, therefore, serve policymakers' demands for quick information.

The Committee's initiative in the research area responds in part to the recommendations of the Coastal States Organization of the National Governors Conference and of the National Advisory Committee on Oceans and Atmosphere in its third annual report issued June 28, 1974. The summary of NACOA's deliberations included this suggestion:

> The National Coastal Zone Management Act of 1972 [should] be amended to include the encouragement and support of the research, development, and advisory services by the States needed to provide a basis for careful, long-enduring decisions on coastal zone matters.

NACOA surveyed existing research resources before recommending the amendment. The NACOA report made the following point about the connection between research and policy in coastal zone management:

> It is important to note here that NACOA is not recommending scientific and technology development programs for the sake of science but as a vital input to and an integral part of an effective coastal zone management system. This is a critical point which should not be overlooked.

5. *Increased Funding for Program Development and Implementation*

The Coastal Zone Management Act, as a joint State-Federal effort, requires the use of both State and Federal funds for program development and implementation under sections 305 and 306. At present, the Act's matching formula calls for one-third State funds and two-thirds Federal funds.

It is increasingly difficult for States to provide their share of coastal zone management funding at the current matching level. This problem was cited almost unanimously by coastal States and territories corresponding with the Committee.

Massachusetts expressed, directly and succinctly, the need for expansion of Federal funding under sections 305 and 306, in correspondence with the Committee:

> We support the increased funding and an 80-percent Federal share for sections 305 and 306 of the Coastal Zone Management Act. The expanded Federal share is necessary in light of the critical financial conditions in Massachusetts and other States.

The only nonparticipating territory, American Samoa, cited this in correspondence with Senator Hollings as the reason for its failure to join the program:

> The Territory of American Samoa has been in regular contact with the administrators of the Coastal Zone Management Act since its inception. We have not as yet participated in any of the program activity. Our reasons for not

> doing so are somewhat related to the amendments which S. 586 proposes. That is, the match requirements would impose too great a burden on the Territory in view of our present financial difficulties. We, therefore, support a reduction in match requirements as proposed for sections 305 and 306.

S. 586 therefore increases the Federal share of funding under section 305 (program development) and section 306 (program implementation) to 80 percent. This action, combined with expanded requirements for States to incorporate beach access programs and energy facility planning processes in their comprehensive management programs, makes it necessary to increase the absolute level of funding as well. Section 305 funding is therefore increased from $12 to $20 million annually, and section 306 from $30 to $50 million annually, and States may receive development grants for 4 years rather than 3, as originally authorized in the Act.

6. *Funds for Public Access to Beaches and Preservation of Islands*

In recent years—both before and after passage of the Coastal Zone Management Act—coastal States have realized the increasing difficulty of assuring public access to and protection of beaches and islands in the coastal zone. Time is of the essence, since property values are rising steeply and quickly on waterfront property.

The committee is persuaded that providing assistance to the States for the acquisitions of lands for these purposes is amply justified and in the national interest. With population and leisure trends pointing to increased demands on limited public waterfronts, it is imperative to protect these properties. To wait longer would mean the public will have to pay higher prices for the property needed for enjoyment of public beaches.

A number of States have cited beach access problems as critical in correspondence with the committee. Maryland reports that only 3 percent of the Chesapeake Bay shorelands are publicly owned. In its correspondence with Senator Hollings, the State notes:

> The beach provisions of S. 586 would provide a planning element to Maryland's fledgling public beach access program, and would double the purchasing power of limited State funds that are already committed to purchasing beach lands. This increased funding could provide impetus for extending our beach access program to the Chesapeake Bay shoreline.

Similarly, the Florida Coastal Coordinating Council wrote to Senator Hollings:

> This section will enable Florida to contend with development pressures that are threatening to close off public access to Florida's numerous beaches; this is a problem which, up to the present, Florida has had substantial difficulty in dealing with.

The California Coastal Zone Conservation Commission endorsed the beach and island provision of S. 586 and reported that:

> Strong efforts to increase public access to the ocean coast are contained in the preliminary coastal plan that is now the subject of 20 public hearings in California.

The director of planning for Guam stated:

> The Guam Legislature has recognized the serious access problems its citizens face, and has passed legislation relative to this problem. Having Federal funds available to help implement their efforts will improve our effectiveness.

7. *Associate Administrator of NOAA for Coastal Zone Management*

The events since passage of the Coastal Zone Management Act of 1972—most notably the energy crisis and its attendant problems and pressures on the coastal zone—have elevated the importance of sound coastal zone management as a public policy issue for the Nation as a whole. Initially, the program was administered within the National Oceanic and Atmospheric Administration (NOAA) by the Director of the Office of Coastal Zone Management. In February 1975, recognizing the elevated level of responsibility being handled by the Director, Robert W. Knecht, the Administrator designated him as Assistant Administrator of NOAA for Coastal Zone Management. The committee believes however, that this administrative elevation does not sufficiently reflect the importance of coastal zone management within NOAA and the Department of Commerce. Therefore, the Committee provides in S. 586 for the creation of the post of Associate Administrator for Coastal Zone Management. As an executive level 5 appointment, the office would require a Presidential appointment and Senate confirmation. The Committee believes that Mr. Knecht, as Director and subsequently Assistant Administrator for Coastal Zone Management, has performed his duties with unusual ability and competence, and the members wish to express their hope that the President will appoint him to fill the position of Associate Administrator.

8. *Protection of State Role in Land and Water Use Decisions*

The Committee does not intend, by adding a requirement that States develop a planning process for energy facilities as a component of their comprehensive coastal zone management programs prior to secretarial approval of such programs, to imply a greater Federal role in specific siting decisions made by the States. This is stated explicitly in section 318(a) of S. 586.

9. *Application of National Environmental Policy Act*

Section 318(b) states that grants or loans made pursuant to section 308 of the Act, as amended, are not to be deemed "major Federal actions significantly affecting the quality of the human environment," so that the preparation of environmental impact statements relating to decisions about grants or loans will not be required for compliance with the National Environmental Policy Act of 1969. This does not mean, however, that the construction of a public facility or any other action paid for with such grants or loans, which requires an environmental impact statement on its own merits, is exempt from that requirement.

Section-by-Section Analysis

Short Title

Section 101. The Act may be cited as the "Coastal Zone Management Act Amendments of 1975".

General Provisions

Section 102. This section amends the Coastal Zone Management Act of 1972 as amended, as follows:

(1) This subsection amends the "Congressional Findings" section (302) to provide in subsection (b) thereof an additional finding that the coastal zone is rich in ecological resources.

(2) This subsection amends the definitions section (304) by: adding "islands" as a specifically enumerated component of the coastal zone together with already listed areas such as wetlands and salt marshes. This amendment is of a technical nature in that the existing definitions, as well as the intent of the act including its legislative history, make it clear that islands are already covered by the Act although not specifically listed. This amendment is added primarily because specific provisions are made in S. 586 with respect to islands (subsection 8 of section 102).

(3) This subsection amends the said "Definitions" section by adding "islands" as specific areas to which the estuarine sanctuary provision of the act pertains. Again, this amendment is technical only as islands were included in the original act although not specifically enumerated.

(4) This subsection amends the said "Definitions" section by adding a definition of "energy facilities" as section 304(j). The comprehensive coastal zone management planning envisioned by the Act included such facilities within its general coverage but other provisions of S. 586 which focus upon such facilities, directly, made it necessary to define exactly what facilities it is to which these additional provisions refer. The new subsection (j) defines such energy facilities to be new facilities or additions to existing facilities. Existing energy facilities are included in the uses of "energy facilities" in S. 586 only if existing facilities are added to, or their function is changed. The point in time to be used for determining "new" facilities, existing facilities, and so on shall be the effective date of these amendments.

Subsection (j)(1) defines one of two types of energy facility: one is a facility which is, or will be, directly used in the extraction, conversion, storage, transfer, processing or transporting of any energy resource. Subsection (j)(2) defines the second type of facility included: one which will be used primarily for manufacture, production, or assembly of equipment, machinery, products, or devices which are, or will be, directly involved in the type of activity included. This second type of facility is included only if it will serve, impact, or otherwise affect a substantial geographical area or a substantial number of people. The Committee does not intend to create ambiguities by its use of the term "substantial" in this definition. Each State should receive assistance under this Act for comprehensive coastal zone management, and in the event of reasonable doubt concerning whether the geographic area or number of people involved is substantial, the Committee expects that doubt to be resolved in favor of the States' inclusion of them in its program. In the case of grants and loans for adverse impacts from such facilities as provided hereafter in this bill, the Secretary of Commerce (through NOAA) will, of course, additionally determine the value or extent of those impacts and the amounts of loans and grants.

The regulations of the Secretary of Commerce (through NOAA) should also set criteria and guidelines for determining whether a facility is "directly used," as that term is used in subsection (j)(1), and "used primarily" and "directly involved," as those terms are used in subsection (j)(2). In this regard, it is the intent of the Committee that in (j)(1) the facilities included will be those actually engaged in the activities described. In the event any such facilities are only partially actually engaged in the described activity, only that portion of their use (or approximation thereof) which relates to that activity will be considered in making grants and loans under the new section 308 of the Coastal Zone Management Act as added by S. 586. In the case of planning and management for such facilities as in section 305(b) of the Coastal Zone Management Act, as amended by S. 586, the entire facility would be included for the primary reason, as previously mentioned, that the Coastal Zone Management Act already includes most of such facilities. If there is any doubt, however, the fact that part of the activity of the facility falls within the definition of energy facility in this bill should be regarded as sufficient, in itself, to bring that facility under the State program.

As to (j)(2), the term "used primarily" is intended to mean the main purpose of the facility or the majority use thereof. The term "directly involved in" is intended to mean "actually used in."

The definition of "energy facility" further enumerates certain specific activities intended to be covered. The majority of those listed are those which are of the type described in (j)(1). The list is not exclusive, and it is additionally provided that the Secretary may designate other facilities. The operative provisions of the Act using the term "energy facilities" provide additional guidance as to the facilities included.

Subsection (4) also adds:

A new subsection 304(k) which defines "person," and

A new subsection 304(l) which defines "public facilities and services," including examples. This definition is made necessary by section 308 of the CZM Act as amended by S. 586.

Additional activities financed by State and local governments will likely be found which are in addition to those listed. State and local environmental facilities and services directly attending to the environmental consequences of energy facilities constitute another activity which would be included within the term "public facilities and public services." The Secretary of Commerce (through NOAA) should promulgate regulations which recognize, or provide for recognition of, such additional activities.

(5) This subsection amends the "Management Program Development Grants" section (305) by adding to section 305(b) two new specifically enumerated requirements for the coastal zone management program which a State is to develop and maintain under the CZM Act: first, in a new paragraph (7), the program is to include a general plan for the protection of, and access to, public beaches and other coastal areas of environmental, recreational and historical, esthetic, ecological, and cultural value. The State plan is to define what it considers a beach for the purpose of this requirement. Although not stated, the Committee intends that the State also define what is a

"public beach" under its plan. In both instances, consistent with the overall purpose of the Act, the determination is made by the State. The Secretary of Commerce (through NOAA) will provide general guidelines which permit the States to make their own determinations within the range of those guidelines.

This committee's report on the Coastal Zone Management Act of 1972 provided suggestions on possible ingredients of a State coastal zone management program, without limitation. We specifically mentioned "ecology" * * * "recreation including beaches * * *" "open space, including educational and natural preserves, scenic beauty and public access to the coastline and coastal and estuarine areas, both visual and physical," among others. Without detracting from the guidance provided in our report then, this new provision in 305(b)(7) represents a determination of the commitee to give further emphasis to protection of and access to the areas mentioned. As such, it is essentially not a new requirement of the act. It is also not a mandate to each coastal State to provide any specific protection and access but only a mandate to include in the management plan of each for which grants are provided an adequate specific plan for that State with respect to these matters. Some coastal States already have such plans, although they are in different stages of development or implementation. This provision assures that there will be Federal assistance under the Coastal Zone Management Act for such plans.

Second, this subsection adds a paragraph (8) to section 305(b) which specifically requires that the State coastal zone management program include a process for the planning for energy facilities likely to be located in the coastal zone and for the planning for, and management of, the anticipated impacts from any energy facility (whether that facility, causing the coastal zone impact, is in or out of the coastal zone). As in the case of paragraph (7), above, the specificity which this provision adds to the Coastal Zone Management Act does not bring a previously nonexistent requirement into the Act. Energy facilities were recognized as a major component of the development in the coastal zone when the Coastal Zone Management Act was enacted to provide assistance to the States in protecting, preserving, and developing the coastal zone in a rational, comprehensive, and coordinated manner. The legislative history of the Coastal Zone Management Act of 1972 clearly discloses that energy facilities were to be appropriately dealt with in State coastal zone management plans. This includes the impacts resulting in the coastal zone from such facilities. This history is more fully discussed in an earlier portion of this report. The provision which S. 586 adds is, of course, brought on by the increased emphasis in recent years upon the siting of energy facilities in and beyond the coastal zone (together with other increasing demands), and the Committee's desire to be assured that each coastal State receives needed assistance for its necessary planning for such energy facilities and for such impacts. This is also discussed in an earlier portion of this report.

The additional provision for an energy facility planning process component of a State coastal zone management program also complements the present section 306(c)(8) of the Coastal Zone Management Act which provides that no State program may be approved for

"administrative grants" unless the State program provides for adequate consideration of the national interest in the siting of facilities necessary to meet requirements other than local in nature. The Secretary of Commerce (through NOAA) should provide guidance and assistance to States under this section 305(b)(8), and under section 306, to enable them to know what constitutes "adequate consideration of the national interest" in the siting of energy facilities necessary to meet requirements other than local in nature. The Committee wishes to emphasize, consistent with the overall intent of the Act, that this new paragraph (8) requires a State to develop, and maintain a planning process, but does not imply intercession in specific siting decisions. The Secretary of Commerce (through NOAA), in determining whether a coastal State has met the requirements, is restricted to evaluating the adequacy of that process.

Neither paragraph (7) nor (8) would be applicable as a requirement under the Act through fiscal year 1978, as stated in section 305(d). The Committee believed that most coastal States would not require this additional time but did not want to place any such State at a possible disadvantage in achieving and maintaining eligibility for the Coastal Zone Management Act funds as a result of these new paragraphs (see also the new subsection (i) of section 306 added by S. 586).

(6) This subsection amends section 305(c) so as to increase the maximum Federal share of the costs of the development phase of a coastal zone management program to 80 percent from the present 66⅔ percent and further amends that subsection to extend, by 1 year, the time during which a coastal State may receive such grants for development of a program before it must have an approved program in order to continue to receive grants under the act. The increase of Federal participation is necessary to provide the requisite Federal financial support to the coastal States to accomplish the very essential development of coastal zone management programs. The need for this increase is the greater burden on the coastal States brought on by pressures on the coastal zone and the larger outlays required to develop a coastal management program which fulfills the basic intent of the Act. S. 586, in its other amendments to the Act, reflects some of these increased pressures and burdens.

The amendment which gives the coastal States 4, rather than 3 years to develop their program is also a reflection of the increases in the complexity of developing a program consistent with the Act. It is also brought on by the delay in funding which the Administration provided for the States in the initial year of the Act.

(7) This subsection amends section 305(d) to provide, as mentioned previously, that the new paragraphs (7) and (8) of section 305(b) shall not result in a delay of approval of, or finding of an incomplete, plan under section 305 and section 306 of the act until September 30, 1978, and to provide that the States shall remain eligible for grants under section 305 through fiscal year 1978 for the purpose of developing the plan and process required by 305(b) (7) and (8), pursuant to the implementing regulations.

This amendment provides additional time to the States to meet the requirements of regulations of the Secretary of Commerce (through NOAA) issued to implement 305(b) (7) and (8). The committee

directs that these regulations shall be promulgated as soon as possible after these amendments become law, subject, of course, to such subsequent revisions of those regulations, as may be required.

This amendment also enables States to receive section 305 development grants for the purposes of said paragraphs (7) and (8) even though its ability to receive grants for the balance of that section may have expired because it has received grants for the maximum 4-year period or because it is receiving "administrative grants" under section 306. Coastal States which apply for approval of their management program under section 306 after fiscal year 1978 will have to meet the requirements of these regulations as well as others. Coastal States which are already receiving grants under section 306 will be required by the beginning of fiscal year 1979 to have developed the parts of their program which include the process and plan required by section 305(b) (7) and (8) and to have received approval thereof in accordance with section 306, in order to receive section 306 grants without interruption. Because, as earlier noted, energy facilities and protection and access for public beaches were already inherent in the Act without the specificity provided by S. 586, it is not the Committee's intent to build in a delay factor for all beach access, protection and energy facility planning, but only for those new requirements necessary to conform the coastal zone management plans with those specific regulations necessary to implement 305(b) (7) and (8). The regulations for the coastal zone management program should clearly identify those to which the delay provided by the amendments to section 305(d) will apply.

(8) This subsection amends section 305(h) to extend from June 30, 1977 to September 30, 1979, the authority to make grants under section 305. Partly because of the lack of financial support in the first year of the Act and for other reasons, there are some coastal States which did not begin receiving section 305 grants as soon as the committee had originally anticipated.

This amendment provides an additional 2 years for States to be developing their programs and to receive grants therefor, subject of course to the 4-year participation period for each State in section 305(c) (extended by S. 586 in some cases with respect to 305(b) (7) and (8) as discussed previously).

The Committee, however, reaffirms its hope that the coastal States will get on with the task of developing coastal zone management programs to the point of having them approved so that they may receive section 306 grants. The Committee does not contemplate giving extensions beyond the present one.

(9) This subsection amends the "Administrative Grants" section (306) so as to increase the maximum Federal share of the costs of the ongoing State program operation to 80% from the present 66⅔%. The increase in Federal participation is necessary to provide the requisite Federal financial support to the coastal States in the actual carrying out of their approved management programs. For effective performance of the State's responsibilities, funding should be sufficient to enable them to devote their maximum efforts to this task which, of course, has been, and will be, made more difficult by the increased emphasis on developments pertaining to energy supply and production.

(10) This subsection amends the "Administrative Grants" section (306) by making an addition to that portion of the act (306(c)(8)) which specifically refers to the siting of facilities and requires State coastal zone management programs, in order to receive such grants, to provide for adequate consideration of the national interest in the planning for and siting of facilities necessary to meet requirements other than local in nature. The addition made by S. 586 is a requirement relating to such facilities which are energy facilities and provides that the Secretary of Commerce (through NOAA), pursuant to regulations, shall find that the State has given consideration to any applicable interstate energy plan or program that is promulgated by an interstate agency established pursuant to a new section 309 of the CZM Act which is set forth in S. 586. Energy facilities are only one type of facilities to which 306(c)(8) pertains, but in view of the provisions made in the new section 309, the committee believed it necessary to especially emphasize the importance of fully considering the plans and programs of interstate agencies as they pertain to energy facility. This does not mean, however, that the regulations of the Secretary may not require consideration of such interstate plans and programs with respect to the siting of other facilities, or their other plans and programs. The requirement of such consideration by the existing provisions of section 306(c)(8) is that it be "adequate consideration." Consistent with the intent of the Act, the Committee has not required automatic acceptance by the coastal States of these interstate energy plans and programs, but on the other hand, the requirement that the consideration be adequate is not superfluous.

As the new section 309 is written, it may be that the plans and programs thereunder would not be developed or promulgated by an interstate agency, as such. The Committee intends to include all official plans and programs produced pursuant to the authority provided by the new section 309. Also included is consideration of the plans and programs of the temporary *ad hoc* planning and coordinating entities authorized by said section 309.

(11) This subsection amends section 306 by adding a new subsection (i) which imposes an additional requirement of eligibility for section 306 grants. Namely, that after fiscal year 1978 each coastal zone management program shall include as an integral part, an energy facility planning process, and a general plan for the protection of, and access to, public beaches and other coastal areas which process and plan has been developed pursuant to section 305(b) (7) and (8) which are added by S. 586. Such provision is complementary to section 305(d) as amended by S. 586, and the discussion of that amendment is applicable here.

(12) This subsection amends the "Interstate Coordination and Cooperation" section (307) to add to subsection (e)(3) the word "lease" each place the words "license or permit" are used therein. This is an amendment of a technical nature in that the committee intended that the words "license or permit" would include "lease" and believes that, in fact, as used in section 307, they do, but this amendment is to clear up any possible ambiguity. Section 307 is the portion of the Act which has come to be known as the "Federal consistency" section. It assures that once State coastal zone management programs are approved and a rational management system for protecting, pre-

serving, and developing the State's coastal zone is in place (approved), the Federal departments, agencies, and instrumentalities will not violate such system but will, instead, conduct themselves in a manner consistent with the States' approved management program. This includes conducting or supporting activities in or out of the coastal zone which affect that area. The provisions of section 307(c)(3) include instances where a Federal entity issues a license, lease, or permit for any activity in or out of the coastal zone which may affect the State's coastal zone. In such instances, the pertinent coastal State is provided an opportunity to determine whether that activity, or effects thereof, will be consistent with its approved coastal zone management program, and no such license, lease, or permit shall issue until the State's concurrence with respect to such consistency is provided, or where the State does not act within 6 months, it is presumed. The applicant for such a license, lease, or permit, or for its renewal, is provided an opportunity of appeal and an exception is provided in cases involving national security. As energy facilities have been focused upon more closely recently, the provisions of section 307 for the consistency of Federal actions with the State coastal zone management programs has provided assurance to those concerned with the coastal zone that the law already provides an effective mechanism for guaranteeing that Federal activities, including those supported by, and those carried on pursuant to, Federal authority (license, lease, or permit) will accord with a rational management plan for protection preservation and development of the coastal zone. One of the specific federally related energy problem areas for the coastal zone is, of course, the potential effects of Federal activities on the Outer Continental Shelf beyond the State's coastal zones, including Federal authorizations for non-Federal activity, but under the act as it presently exists, as well as the S. 586 amendments, if the activity may affect the State coastal zone and it has an approved management program, the consistency requirements do apply. This has been an encouragement to the respective coastal States and the concerned citizens thereof to move toward obtaining an approved management program.

In regard to the consistency provisions of section 307, the Committee intends that the delays which it has provided in S. 586 for a State in order to permit it to develop and obtain approval of those portions of its program newly required by S. 586, shall in no way prevent the operation of the consistency provisions of section 307 which shall apply to every State which has received approval for section 306 grants. The portions of the State's management program developed and approved in compliance with those new provisions, however, may well establish additional requirements in the State program which will have to be met to achieve the requisite consistency.

(13) This subsection amends the Act by adding three new sections numbered as 308 through 310 and by redesignating the present sections bearing those numbers and succeeding sections so that they follow these three new sections. The new sections are as follows:

Section 308.

This section is entitled "Coastal Energy Facility Impact Program."

Section 308(a) authorizes the Secretary of Commerce (through NOAA) to make grants to a coastal State, the coastal zone of which

has been, or is likely to be impacted by the exploration for, or the development of or production of, energy resources or impacted by the location, construction, expansion, or operation of an energy facility or both. The grants authorized by this subsection are to be provided for the purpose of enabling the coastal State to study and plan for the consequences of such facilities and activities. Impacts which should be beneficial can become adverse without proper planning and study. Because of the importance of such planning and study to the Nation's coastal zone and because of the necessity of such planning and study to assist the overall national energy effort which requires a knowledgeable and comprehensive mechanism for dealing with the impacts from such energy activities and facilities, the grants to be provided under this subsection are authorized to be up to 100 percent grants, depending on the available funds. The Committee believes that providing maximum Federal funding to permit each coastal State participating in the coastal zone management program to do its own planning and study, is not only necessary but preferable to having the Federal Government undertake this planning and study even if it is done for the States. It is believed that the coastal States are well aware of the need to undertake such planning and study as soon as possible and in a scientific comprehensive form and that they will do so.

We expect that the Secretary of Commerce, utilizing the resources of the National Oceanic and Atmospheric Administration, will cooperate fully in providing necessary Federal assistance and guidance to the coastal States in this most important undertaking. Of course, the coastal zone management mechanism, under the 1972 Act, was designed to encourage and facilitate this type of activity by the coastal States. The impacts which the States will address are those which will be, or may be, experienced in the coastal zone including those which are a result of energy activities and facilities which are located outside of the coastal zone and the coastal States will carry out this study and planning in conjunction with their other activities under the Coastal Zone Management Act. As this section pertains to all types of energy facilities and activities having an impact on the coastal zone, it is expected by the committee that each coastal State will need to receive the grants provided by subsection (a). Presently, all coastal States are already participating in the coastal zone management program. The regulations for these grants are to be adopted pursuant to subsection (d) and (e) of section 308.

Section 308(b) authorizes the Secretary of Commerce (through NOAA) to make grants and/or loans to coastal States, upon a determination, pursuant to the criteria in subsections (d) and (e), that the State's coastal zone has been, or is likely to be, adversely impacted by the types of activities and facilities described in subsection (a). The Secretary (through NOAA) is also required to find that such adverse impacts will result as a consequence of a license, lease, easement or permit granted by the Federal Government which permits (1) the exploration for, or the drilling, mining, removal or extraction of, energy resources, or (2) the location, construction, expansion, or operation of energy faculties including by a lessee, licensee or permittee. (The committee does not intend this designation of "lessee, licensee, or permittee" to be exclusive) or (3) activities in (1) and (2) when carried out by, or for, the Federal Government.

These grants and loans are to be used by the States for carrying out projects which (A) reduce, ameliorate, or compensate for, the net adverse impacts in the coastal zone of such activities and facilities and (B) provide public facilities and public services made necessary, either directly, or indirectly by such activity and facilities. These grants and loans may equal 100 percent of the costs of the projects, depending on the funds available. The costs of the projects include the actual expenses of accomplishing the said reduction, amelioration, compensation and provision of public facilities and services. In both cases, the loans or grants should not be for costs not attributable to the energy facility or resource development. For example, a public facility which responds in part to adverse impacts from an energy facility and responds in part to unrelated needs, would be funded only in proportional part under this subsection.

The grants and loans authorized by this subsection are not intended to be used in lieu of funds available from those who are liable for specific damages which result from the location, construction, or expansion of an energy facility or from the exploration for, development of or production of energy resources.

Section 308(c)(1) pertains only to the grants which are authorized by subsection (b). Such grants may be made only if the Secretary of Commerce (through NOAA) determines, pursuant to subsections (d) and (e), that the coastal State will suffer net adverse impacts in its coastal zone as a result of the energy facilities and activities designated in subsection (b). The period against which the said net adverse impact is to be judged is specified as the period of the useful life of such facility or the period of such exploration, development or production activity.

Section 308(c)(2) pertains only to the loans which are authorized by subsection (b). Such loans are to be made in lieu of grants when the Secretary of Commerce (through NOAA) determines, pursuant to subsections (d) and (e), that the coastal State will experience temporary net adverse impacts as a result of the energy facilities and activities designated in subsection (b) but that over the period of the useful life of the facility or activity, it is expected to bring net benefits to that coastal State. The maximum period for which any such loan may be granted is 40 years and the Secretary (through NOAA) is to establish the interest rates at which such loans will be granted, not to exceed an annual percentage rate of 7 percent, and other conditions of such loans. He is additionally authorized to forgive any loan, or part of a loan, if the borrowing State demonstrates to his satisfaction that there has been a change of circumstances (the Committee also intends to include better knowledge of the circumstances originally known) so that there are resultant or anticipated, net adverse impacts, rather than benefits, which would qualify that coastal State for a grant under section 308(c)(1). In such cases, the forgiven loans will be regarded as grants to the State under this section 308(c)(1).

Repayment of loans should be geared to the time when the State is expected to begin to experience the net benefits from the facility or activity and on a repayment schedule which is related to the expected value of the net benefits reecived or experienced. It is the Committee's intent that the Secretary's authority under the act includes the authority to readjust the time period for repayment of the loan (within the

40-year maximum), and the repayment schedule (including amounts of payments) in accordance with the actual experience of the State in realizing the net benefits, but the States are expected to do their part in seeing to it that the benefits are realized, including the time of realization. The loan instrument, or conditions accompanying the loan, and the regulations are expected to provide reasonable advance notice to the borrowing State together with an opportunity for a hearing and other equitable provisions in the event of any acceleration of repayment of the loan including increases in amounts of periodic payments.

The loan instrument, and/or regulations, shall also provide the procedures whereby a State may request the said conversion of a loan, or part of a loan, to a grant, the said extension of a loan or the said reduction in payments.

Section 308(d) provides that the Secretary (through NOAA) shall promulgate regulations which establish the eligibility requirements for grants and loans under this section. Such requirements may include a formula for calculating the amount of the loan or grant based upon the difference between the benefits and the costs which are attributable to the facility or activities involved in the event of grants or loans under 308(b).

The Committee does not intend that the coastal States necessarily be the recipients of a multiplicity of separate grants and loans under 308(b), each relating to separate energy facilities and activities. To the maximum extent, the Secretary of Commerce (through NOAA) and the States shall endeavor to combine and consolidate such section 308(b) loans and grants including the setoff of net benefits against net adverse impacts.

Paragraphs (1), (2), and (3) of subsection (d) set forth certain findings which must be made prior to making loans and grants to coastal States under section 308(b). The State must be receiving grants under section 305 or section 306 of the act or it must be otherwise engaged in the development of a coastal zone management program, as set forth in section 305, in a manner consistent with the goals and objectives of the Act. In the latter case, and in the case of States receiving section 305 grants, it is provided that the Secretary (through NOAA) must also find that the States are making satisfactory progress toward the development of an approvable coastal zone management program. It is therefore not necessary that a State actually be receiving either section 305 grants or section 306 grants for it to be eligible for loans and grants under this section. The committee does believe it is necessary that the State be developing a coastal zone program consistent with the act and making progress toward achieving it for the reason that the grants and loans under section 308 should be used as part of a comprehensive State coastal zone management effort. The benefits to the States, and the Nation, from operating this coastal energy facility impact program as part of the Coastal Zone Management Act, and the State program pursuant thereto, are much greater than if these funds were provided to the States independently and without such requirements. It assures that full value will be received from the money expended.

The State must also demonstrate to the satisfaction of the Secretary of Commerce (through NOAA) that it will suffer, or is likely to suffer, the net adverse impacts required for eligibility for grants and

loans. This provision places the burden of going forward on the State to establish eligibility including requiring it to provide all necessary information required by the Secretary for calculation of the amount of loan or grant. In addition, a finding is to be made that the State applying for a grant or loan has demonstrated, and provided adequate assurances, that the proceeds of the grant or loan will be used for the intended purpose which shall be consistent with the Coastal Zone Management Act.

Section 308(e) makes further provisions concerning the methods and procedures for grants and loans under this section. The Secretary is to issue, within 180 days after approval of the act, regulations for such grants and loans including for eligibility and for determination of amounts.

The regulations are to specify how the Secretary will determine whether a State's coastal zone has been, or is likely to be, adversely impacted including determinations of "net adverse impacts" and "temporary adverse impacts." The Committee foresees that these regulations will establish those matters which a State applying for a grant or loan will be expected to show and the manner in which those matters are to be established. The instances of impacts which have already occurred are obviously the easiest to establish and evaluate.

Where the impacts are believed likely to occur, the regulations will probably provide several "points of beginning." For example, knowledge of an energy facility being established in a given location for a given purpose, knowledge of the probable existence of an energy resource together with knowledge of the demand therefor, and its availability, are potential "starting points." When dealing with anticipated adverse impacts, the regulations should take into account the necessary leadtime for planning for, and dealing with, certain types of impacts as opposed to the time involved with respect to commitments to construct or operate an energy facility or carry out an energy activity. The goal will be to produce the funds for the States when they will be needed for the purposes intended but the Secretary will want to have as much assurance as possible, with that goal in mind, that the adverse impacts are actually going to be experienced. This includes assurance that the energy facility will be established or the energy activity will be conducted. Once it is known to the maximum extent possible, that an energy facility will be established, or an energy activity conducted, the regulations will provide for the determination of types and degrees of adverse impacts reasonably to be expected from the facility or activity and the types of benefits reasonably to be expected therefrom. After that, the regulations will provide a means for calculating the monetary value of adverse impacts and benefits to that State from said facility or activity and a schedule for determining when those costs and benefits will likely be experienced and the rate at which they will likely be experienced. When the process is completed, the result should be an approximation which will show whether the State is likely to experience temporary net adverse impacts, net adverse impacts or net benefits and the value thereof. An alternative initial action for which the regulations may provide is an initial temporary loan based upon the existence, or anticipated existence, of any energy facility or activity with anticipated temporary or net adverse impacts. Such a temporary loan could be granted pending a subsequent reassessment

and the appraisal of later developed facts which will produce a determination of whether the loan should be extended, or otherwise modified, or converted to an outright grant.

By way of guidance, the Committee intends to include in "net adverse impacts" or "costs" and in "net benefits" and "benefits," the monetary value of effects of energy facilities and activities even though each such effect may not require, or permit, an actual expenditure, or receipt of, money. However, where funds are paid to coastal States by way of grants or loans, the coastal State is required to use those funds for the purposes of this act. If the nature and extent of that particular damage cannot be fully ameliorated by the expenditure of the funds loaned or granted as a result of that impact, the coastal State nevertheless should expend the funds received as a result of that adverse impact for a project with a purpose consistent with the Act.

"Net benefits" or "benefits" to a coastal State include, for example, such matters as increasing the value of its tax base or increasing its potential revenues by way of special taxes, licenses or permits or, in the receipt of shares of the revenues produced.

Section 308(e)(2) pertains to planning grants under subsection (a) and provides that the regulations shall provide the States with a general range of the types of activities for which funds will be provided under that subsection.

Section 308(e)(3)(B) provides that the regulations shall establish guidelines and procedures for evaluating projects coastal States determine are most needed for which grants and loans are requested under subsection (b). The emphasis this provision provides is that the coastal States shall determine for themselves which projects are most needed by them when submitting their requests subject, of course, to review and approval.

The Committee intends that the entire Federal establishment will provide such assistance as may be requested by the Secretary of Commerce (through NOAA) in order to assist the development of the regulations for loans and grants under this section. The Comptroller General shall provide advice to the Secretary (NOAA) with respect to the requirement which he believes necessary to fulfill his obligations under section 308(e)(5) as well as such other assistance as may be requested by the Secretary (NOAA) in developing the regulations for these grants and loans.

Section 308(e)(6) stipulates that the Secretary (NOAA) shall consult with appropriate Federal agencies in developing the regulations and, as noted earlier, when requested that these agencies shall provide actual assistance. Also, to be consulted are appropriate State and local governments, appropriate commercial and industrial organizations, appropriate public and private groups or any other appropriate organization with knowledge or concerns regarding net adverse impacts which may be associated with the energy facilities and activities to which such regulations pertain. The Committee specifically notes that it has provided a 6-month period of time to develop the regulations required to implement this section due to the complexity of the regulations to be developed. The Secretary of Commerce (NOAA) and others with duties with respect thereto, however, are expected to begin immediately after signature of the bill into law, to begin to develop these regulations and to devote maximum effort thereto. The requests

to other agencies for the desired assistance within their areas of expertise should be one of the first orders of business.

Section 308(f) provides that a coastal State, with the approval of the Secretary (NOAA) may allocate all or a portion of any grant or loan received under this section to (1) local government, (2) an area-wide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, (3) a regional agency or, (4) an interstate agency. This provision is similar to that already provided in section 305(f) of the CZM Act.

Section 308(g) provides that grants and loans under this section may be provided to States which have experienced net adverse impacts prior to the date of enactment of the bill. A 5-year limit is placed on the operation of this subsection. This 5 years is believed by the Committee to constitute the broadest possible latitude which can be permitted and it further believes that the coastal States will request these funds much sooner than that. The Committee expects the regulations for other loans and grants to establish reasonable periods for the submission of requests for such other grants and loans. The Committee further notes that this provision in no way relieves the coastal States from establishing the validity of their requests.

Section 308(h) establishes the "Coastal Energy Facility Impact Fund." Moneys for this fund shall be those moneys appropriated to the Secretary of Commerce (NOAA) for that purpose. The fund is to be administered and used by him as a revolving fund and administrative expenses of section 308 may be changed thereto. Moneys in the fund may be deposited to interest-bearing accounts or invested in U.S. guaranteed bonds or other obligations.

Money returned from States originally paid from the fund shall be redeposited to this fund.

Section 308(i) provides that in calculating the amount of a grant or loan under this section adequate consideration shall be given to recommendations of a "Coastal Impact Review Board" which is established by this subsection. Members are appointed as follows: two by the Secretary of Commerce (NOAA), one by the Secretary of Interior, two by the President of the United States from a list of at least six candidates submitted by the president of the National Governor's Conference. The board shall also make recommendations to the Secretary of Commerce (NOAA) with respect to the actual amount of grants and loans under this section. The regulations of the Secretary under this section shall incorporate, and make provisions for use of, this review board, including its internal procedures. This review board is intended to be an additional means of assisting the Secretary (NOAA) in making the determinations referred to and its recommendations shall not be binding on the Secretary (NOAA).

This review board will be deemed to be within the purview of the Advisory Committee Act, the provisions of which shall apply except as may be inconsistent with provisions of the CZM Act as amended or other applicable law.

Section 308(j) specifies that nothing in section 308 shall be deemed to modify, or abrogate the consistency requirements of section 307 of the CZM Act. The Committee particularly believed it necessary to emphasize that intent at this point and has thus inserted this specific provision although this intent applies to the entire bill.

Section 308(k) contains an additional provision for assistance to the coastal States. This subsection pertains to oil and gas produced on OCS lands and is a provision adopted in committee on the motion of Senator Stevens. Under this provision the coastal State which is adjacent to the Outer Continental Shelf lands from which such oil or natural gas is being produced will receive an automatic grant if said production is occurring on the first day of the relevant fiscal year and if it exceeds 100,000 barrels of oil per day or, in the case of natural gas, the energy equivalent of 100,000 barrels of oil, as determined by the Secretary (NOAA). ("Adjacency shall be determined by regulations of the Secretary" (NOAA).

Also eligible for these automatic grants are coastal States which, as of the first day of the relevant fiscal year, are permitting oil or natural gas produced on the OCS adjacent to that State or adjacent to another coastal State, to be landed (brought ashore) in its coastal zone, providing that such landing occurs as the first landing of that product as a result of its direct transportation thereto. In the event that a State is adjacent to OCS lands where production occurs but is not landing the oil or natural gas produced there, or in the opposite event that a State is landing oil or natural gas produced adjacent to another State, the grants shall be calculated at a rate half as great as that to which it would be entitled if it were both adjacent to OCS production and landing that oil or gas. In most cases, this will mean an equal sharing between the adjacent State and the landing State. In some cases, however, one State may not receive its half because it will not have met the 100,000-barrel-per-day requirement or it will have surpassed the 1-million-barrel-per-day limit. That circumstance does not interfere with the right of the other State to receive its half of the grant as long as that State has met the minimum and has not surpassed its limit. In such cases, the grants shall only be in amounts of one-half that which would be made if the oil or gas had been produced on adjacent OCS lands.

The 100,000-barrels-per-day to 1-million-barrels-per-day eligibility criteria apply to the "landing State" as well.

The funds made available under subsection (1) are to be expended, pursuant to regulations adopted by the Secretary of Commerce (NOAA), for the purpose of reducing or ameliorating adverse impacts resulting from exploration, development or production of energy resources, including those on OCS lands, or from the location, construction or operation of related energy facilities consistent with the CZM Act. If the coastal State does not expend the funds pursuant to the purposes for which granted, the regulations and conditions accompanying such grants shall provide for their return to the U.S. Treasury.

Funds for this subsection do not come out of the "Coastal Energy Facility Impact Funds" and the authorization for such funds, in this subsection, are to be sufficient to provide the coastal States with grants as follows (the amounts stated are those for the States adjacent to the production and in which the oil or gas is landed) : 20 cents per barrel in the first year of payments to that State, 15 cents in the second year of payments to that State, 10 cents in the third year of payments to that State and, 8 cents in the succeeding years of payments to that State. Such authorized funds shall not exceed $50 million per year for

each of the fiscal years until September 30, 1978. Thereafter, for 10 years the authorization shall be sufficient to provide grants at the rates previously stated, which shall be limited to the first million barrels per each State.

Grants under this subsection shall be calculated on the basis of that State's previous volume but in all cases the regulations shall provide for adjustments based upon the actual production and actual landings.

It is further provided in this subsection that coastal States receiving these automatic grants shall use them initially to retire State and local bonds guaranteed pursuant to section 319 of the CZM Act as added by S. 586. If the grants are insufficient to retire both State and local bonds, the local bonds shall be retired first.

Section 308(*l*) constitutes the appropriation authorization provision for the "coastal energy facility impact fund" and the sum of $250 million is authorized for the fiscal year which ends June 30, 1976, the sum of $75 million, for the transitional quarter (required to adjust the Federal fiscal year) which ends September 30, 1976, and the sum of $250 million for each of the 2 succeeding fiscal years.

In other words, the authorization is for $250 million for each of the 3 fiscal years after this bill becomes law. It is further provided that no more than 20 percent of the total amount appropriated for such fund for each year, that is $50 million, should be used for planning and study grants under subsection (a). While the language used inserts an upper limit only, the intent of the committee is that such grants be made and that the use of 20 percent of the appropriated funds for this purpose appears to be the proper allocation of such funds.

No division of funds between those for grants and those for loans pursuant to subsection (b) is provided but this Committee intends to maintain close oversight of the operation of the CZM Act, as amended and will give careful attention to this aspect as well.

The Committee is convinced that the present existing and potential impacts of energy facilities upon the coastal zone will require the full amount authorized but the Committee's oversight function will also include a review of the adequacy of the authorization provided. The Committee believes that this expenditure will promote the realization of a key national goal, the development of domestic energy sources. These funds could be pivotal to the success of that effort. It is essential that the coastal zone be protected, and the existing mechanism of the Coastal Zone Management Act is the best possible means of protection from adverse impacts of energy development. These funds are people related funds and will benefit the vast majority of the people in this country who live in the coastal zone. Of course, to the extent that these funds make it possible and practical to provide energy all of the people of the Nation will benefit.

Section 309.

This new section is entitled "Interstate Coordination Grants to States."

Section 309(a) encourages the coastal States to coordinate coastal zone planning in areas which are contiguous to areas within the coastal zone of other States and to study, plan, and/or implement unified coastal zone policies for such areas. This may be done through interstate agreements or compacts.

Ninety percent funding is authorized for such interstate activity, provided such funds will be used consistent with the respective purpose and activities of the coastal States under section 305 and 306 of the CZM Act. Section 309 was also discussed earlier in this section-by-section analysis with respect to the amendments to section 306(c)(8) of the CZM Act.

Section 309(b) provides the coastal States with the consent of Congress to negotiate, and enter into interstate agreements and compacts for the development and administration of coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306. Such agreements or compacts may also provide for the establishment of agencies to effectuate them. No further approval of Congress is required.

Section 309(c) encourages, and provides for, Federal-State consultation procedures by the parties to interstate agreements and compacts and the Federal Government. The Secretary of Commerce (NOAA), the Chairman of CEQ and the Administrator of EPA are authorized and directed to participate on behalf of the Federal Government. It is the committee's intent that the Secretary of Commerce (NOAA) will have the lead role for the Federal Government in this activity.

Section 309(d) provides, for 5 years, a mechanism intended to fill the gaps which may exist prior to the formal establishment of the interstate compact or agreements to which this section pertains. An ad hoc group of two or more States, directly, or through a multistate instrumentality, may undertake temporary ad hoc planning and coordination including through the establishment of specially oriented ad hoc committees or entities.

The activity authorized pursuant to this subsection is essentially that authorized in subsection (a) but the exact activities of these ad hoc groups will primarily be to lay the groundwork for the activities which will be carried on under subsection (a). The Secretary is authorized to make grants to these ad hoc groups of States up to 90 percent of the costs of creating and maintaining them and the Federal officials mentioned in subsection (a) are to represent the Federal Government when requested. The Secretary of Commerce (NOAA), according to the intent of the committee. will have the lead role in this Federal activity.

Section 310.

This new section is entitled "Coastal Research and Technical Assistance."

Section 310(a) authorizes the Secretary of Commerce (NOAA) to encourage and support private and public organizations concerned with coastal zone management, or aspects thereof, in conducting research and studies relevant to such management.

Section 310(b) authorizes the Secretary of Commerce (NOAA) to conduct a program of research study and training to support development and implementation of State coastal zone management programs for which the States are receiving grants under sections 305 or 306. It is directed that each Federal agency (including departments and other Federal executive branch instrumentalities) shall assist the Secretary (NOAA) upon his written request, on a reimbursable basis or otherwise in upgrading and maintaining the ability of the coastal States to properly maintain a comprehensive coastal zone management program as envisioned by the act, through research, training, and study includ-

ing the conduct of such activities by the Secretary (NOAA) and the provision of technical assistance to the coastal States for such purposes. In order to increase State abilities for carrying out short-term research, studies, and training, grants of up to 80 percent may be provided them.

(14) This subsection of S. 586 amends section 316 of the Coastal Zone Management Act as redesignated (section 313 of the present act). It is entitled "Annual Report." The amendment adds two new requirements for the annual report. The first has to do with impacts in the coastal zone of energy facilities and activities. The second has to do with interstate and regional planning.

(15) This subsection of S. 586 amends section 320 of the Coastal Zone Management Act, as redesignated (this is the present section 315 of the Coastal Zone Management Act which is entitled "Authorization of Appropriations") as follows: (a)(1) Increasing the annual authorization for section 305 ("Management Program Development Program Grants") provided in the present 315(a)(1) as amended, from $12 million to $20 million and by extending the years for which an authorization is provided by 2 years which includes the fiscal year 1979; $5 million is provided for the transitional quarter ending September 30, 1976. These additional years accord the authorization with the amendments made to section 305 by S. 586. The additional authorization is necessary to provide the States with the funds to carry out the increased duties required of them by S. 586 and by the other increased demands of the coastal States as they continue to become more deeply involved in developing these programs for their coastal zones. The increased pressures brought on by energy facilities and activities are part, but not all, of the reason for this increased authorization. The committee is convinced these additional sums are needed and will be well used.

(a)(2) Increasing the annual authorization for section 306 ("Administrative Grants") provided in the present 315(a)(2) from $30 million to $50 million and by extending the years for which the authorization is provided by 3 years which includes the fiscal year 1980. $12.5 million is provided for the transitional quarter ending September 30, 1976. Unlike section 305, section 306 does not terminate. It provides the grants to the coastal States for the operation and maintenance of their approved management programs. These programs are not static but involve an ongoing activity of preservation, protection and development. We have added to the requirements for State management programs by the amendments in this bill and for this reason and because of the growing complexity of the management situation with which the coastal States must otherwise cope, as well as inflation, it is necessary to increase this authorization. With respect to sections 306 and 305, the committee has also amended the Coastal Zone Management Act in this bill to increase the Federal rate of participation to the more standard 80-percent rate.

(a)(3) $5 million is authorized for the fiscal year ending June 30, 1976, $1.2 million for the succeeding transitional quarter and $5 million for each of the 9 years thereafter for grants under the new section 309 ("Interstate Coordination Grants to States").

(a)(4) and (a)(5) $5 million is authorized for the fiscal year ending June 30, 1976, $1.2 million for the succeeding transitional quarter

ending September 30, 1976, and $5 million for each of the 9 years thereafter for subsection (b) of the new section 310 ("Coastal Research and Technical Assistance") and a like sum for the same period for subsection (c) of that new section. Subsection (b) is for a program of research, study and training to assist the coastal States and subsection (c) is for grants to the States to develop their own short term research, study, and training capability.

(a)(6) $50 million is authorized for the fiscal year ending June 30, 1976, $12.5 million for the succeeding transitional quarter ending September 30, 1976, and $50 million for each of the 9 fiscal years thereafter, to be used for the cost of acquisition of lands to provide for protection of, and access to, public beaches and for the preservation of islands in accordance with section 306(d)(2) of the CZM Act. Section 306(d)(2) is the provision of the CZM Act which requires, as a condition precedent to approval of a State management program, that the State has the authority, through its chosen agency or agencies, for the management of its coastal zone in accordance with its management program, including the power to acquire fee simple and less than fee simple interests in lands and waters and other property through condemnation or other means, when necessary to achieve conformance with that management program. This means that when the States own management program provides for the acquisition by it of lands, waters or other property, then it must have the authority, directly or indirectly to carry out that acquisition. The committee is aware of the fact that the mention of condemnation authority in the existing act has caused concern to some who have not studied its wording carefully. We therefore, here emphasize that, first, the State, itself, sets the program and "acquisition" is involved only if it is necessary to carry out that program. Second, condemnation is only one of the means by which the State can "acquire" property and it is probable that a State can carry out a plan which calls for "acquisition" without use of condemnation authority. In such case it need have no condemnation authority just as it need none when the plan does not necessitate acquisitions. With the additions which S. 586 makes to sections 305 and 306 relating to plans for the protection of, and access to, public beaches and other coastal areas, the committee deemed it especially important to clarify this matter. The funds authorized by this new subsection (a)(5) are specifically to augment State funds for protection of, and access to, public beaches and preservation of islands and such funds may be used for acquisitions consistent with that purpose.

(a)(7) Increasing the annual authorization for the estuarine sanctuaries section—section 312 of the present act—from $6 million to $10 million. The period for which the authorization is provided is extended through fiscal year 1985. $2.5 million is provided for the transitional quarter ending September 30, 1976. The need for estuarine sanctuaries has greatly increased by the ever growing threats to the environment of the coastal zone, and the committee believes that the coastal States will be accelerating their planning for and creation of such areas.

(b) Increasing the annual authorization for the administrative expenses of the act in section 315(b) (redesignated 320) from $3 mil-

lion to $5 million and extending the authorization period by 3 years from fiscal year 1977 through fiscal year 1980, $1.2 million is also provided for the transitional quarter ending September 30, 1976. The committee believes this increased authorization is a minimum for the additional administrative activities of the Secretary of Commerce—through NOAA—in carrying out the Coastal Zone Management Act including each of the amendments made by S. 586 for which separate funds are not provided. The committee is concerned that by restricting this amount the ability of the Secretary of Commerce (through NOAA) to respond to the needs of the coastal States and the coastal zone will resultingly be restricted including giving the States the assistance and support which they need to fully take advantage of the Coastal Zone Management Act. The committee therefore expects the Secretary (through NOAA) to keep it closely advised of the need for additional administrative fund authorizations to properly and fully perform the necessary administrative functions. These needs are particularly great when the various coastal States are engaged in developing, and obtaining approval of, their programs.

(16) This subsection of S. 586 adds two new sections to the act as follows:

Section 318.

This new section is entitled "Limitations". The sole intent and purpose of subsection (a) of this section is to confirm that except as necessary to judge an overall coastal State program, plan, or project for which funds are provided, or where otherwise expressly stated in the Coastal Zone Management Act, the Secretary of Commerce cannot become involved in individual energy facility siting matters within a coastal State, and that in no event shall he use his authority or funds under the act to force an individual State to site a specific energy facility when the coastal State does not wish to do so. The decisions of the Secretary are to be made based on rules of general applicability.

Subsection (b) of this section is a declaration that no grant or loan made pursuant to section 308 of the Coastal Zone Management Act, as amended, is to be deemed a "major Federal action" for the purposes of section 102(2)(C) of the National Environmental Policy Act of 1969. The effect of this amendment is that the Secretary of Commerce (NOAA) is not required to file a so-called "environmental impact statement" with respect to the decision to make any loan or grant under the Coastal Energy Facility Fund or the automatic grant provision of the Coastal Zone Management Act as amended by S. 586.

Section 319.

This section is entitled, "State and Local Bond Guarantees".

Section 319(a) authorizes the Secretary (through NOAA) to make commitments to guarantee bonds or other evidences of indebtedness issued by State or local governments to obtain funds to reduce, ameliorate or compensate the adverse impacts in the coastal zone from the exploration for, or the development or production of, energy resources of the Outer Continental Shelf. Where a local government issues such bonds, the Secretary is hereby directed to first obtain the certification of the Governor of that State or his designated representative that he approves such action as being consistent with the State management program under this act and the Secretary shall

be responsible for seeing that such funds are used in a manner consistent with this act, including audits. The Comptroller General shall assist the Secretary in this respect upon request. The Secretary of the Treasury is hereby directed to advise the Secretary of Commerce (NOAA) in all respects with respect to these guarantees. Section 319(b) requires the Secretary (through NOAA) to prescribe and collect a guarantee fee. Such fees shall be charged to the party ordinarily responsible for such fees by usual business practice. The fees are to cover administrative costs under this section. This subsection also provides that in the event payments are required to be made as a result of guarantees under this section, they shall be made by the Secretary of the Treasury from funds authorized to be appropriated under this section, such authorization being for the amounts as may be necessary.

It is additionally provided that the Attorney General is responsible for taking such legal action as is necessary to recover the amounts paid pursuant to the guarantees from the defaulting State or local government which issued the bonds. As previously noted, section 308(k) provides for the retirement of bonds issued under the section.

Section 103.

This section provides an additional Associate Administrator for NOAA who shall be the Associate Administrator for Coastal Zone Management, appointed by, and with, the consent of the President. He will be compensated at the rate provided for level V of the executive pay schedule. The Committee believes the person in charge of the CZM program in NOAA is, and will be, bearing responsibility which indicate that he should be an Associate Administrator. He must be a person with considerable administrative experience in the coastal zone management program area and who has a background which will enable him to perform the coastal zone management responsibilities of NOAA.

Estimated Costs

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the committee estimates that the additional costs for implementation of the provisions of S. 586, over and above the anticipated appropriations under existing authorizations contained in the Coastal Zone Management Act (Public Law 92–583, as amended, Public Law 93–612), would be as follows: $399 million for fiscal year 1976; $112.05 million for the transitional fiscal quarter ending September 30, 1976; $399 million for the fiscal year 1977; $405 million for the fiscal year 1978; $105 million for the fiscal year 1979; $130 million for the fiscal year 1980; $75 million for the fiscal years 1981, 1982, 1983, 1984, 1985.

The total increase in authorization over the period from fiscal year 1976 to fiscal year 1985 would amount to approximately $1,925.05 million.[1]

See chart and notes following.

This chart represents the appropriations authorized by S. 586 by section for each fiscal year in effect. The numeral in each matrix indi-

[1] This figure does not include fundings authorized under section 308 (automatic grants) after fiscal year 1978 nor funds necessary to fulfill bond obligations upon default.

cates the total appropriation for that section/and fiscal year. The numeral in parentheses indicate the difference between existing appropriation authorizations for that section/and fiscal year and the new appropriations authorized by S. 586. Therefore, that numeral (in parentheses) shows what actual new dollar amount is necessary to fund fully the new section for that fiscal year authorized under S. 586. Note also that fiscal year 1985 is representative of fiscal years 1981, 1982, 1983, and 1984.

[In millions]

Section	Appropriation for fiscal year ending—							Section total
	June 30, 1976	Trans. 1st quarter, Sept. 30, 1976	Sept. 30, 1977	Sept. 30, 1978	Sept. 30, 1979	Sept. 30, 1980	Sept. 30, 1985	
305	(8) 20	(2) 5	(8) 20	(8) 20	(8) 20			(34) 85.0
306	(20) 50	(5) 12.5	(20) 50	(20) 50	(20) 50	50		(135) 262.5
Islands and beaches	50	12.5	50	50	50	50	50	512.5
308 [1] automatic grant	50	12.5	50	50	(1)	(1)	(1)	[1] 162.5
308 impact fund	250	75	250	250				825.10
309 interstate	5	1.2	5	5	5	5	5	51.2
310 (b) Federal research	5	1.2	5	5	5	5	5	51.2
310 (c) State-research	5	1.2	5	5	5	5	5	51.2
315 Sanctuary	(4) 10	(1) 2.5	(4) 10	10	10	10	10	(89) 102.5
319 [2] bond guarantee	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
320 administrative costs	(2) 5	(.45) 1.2	(2) 5	(2) 5	(2) 5	5		(13.45) 26.2
Year total	450	12.48	450	450	150	130	75	[3] 2,129.8
Actual new $ amount year total	399	112.05	399	405	105	130	375	1,925.05

[1] The committee is unable to project actual costs of sec. 308(k) (automatic grants) after the fiscal year ending Sept. 30, 1978. Total funding for such automatic grants will be based on the following formula: (1) minimum of 100,000/maximum of 1,000,000 barrels (equivalent) per State per day at 20 cents per barrel 1st yr; 15 cents 2d yr; 10 cents 3d yr; 8 cents 4th and succeeding years. Funds available under this formula will be subject to a total yearly cost limitation of $50,000,000 up to the fiscal year ending Sept. 30, 1978. For the 10 succeeding fiscal years, sufficient funds are authorized to fufill the formula provision stated above.

[2] Sec. 319 authorized the Secretary to guarantee State and local bonds issued for specific purposes as related in the act. Cost estimates for this provision are dependent upon the unforeseeable size and number of defaults by the State and local governments in the payments due under the bonds. It should be noted that if at such time the U.S. Government is required to fulfill its obligation as guarantor, it will have the right of reimbursement against the defaulting State or local government, up to the limit of such funds due or accrued by the defaulting party under sec. 308 (k).

[3] Times 5.

Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the standing rules of the Senate, changes in existing law made by the bill as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

THE MARINE RESOURCES AND ENGINEERING DEVELOPMENT ACT OF 1966, AS AMENDED BY THE ACT OF OCTOBER 27, 1972

(86 Stat. 1280, 33 U.S.C. 1101–1124)

Title III—Management of the Coastal Zone

* * * * * * *

Congressional Findings

* * * * * * *

Title III—Management of the Coastal Zone

* * * * * * *

Sec. 302. (b) The coastal zone is rich in a variety of natural, commercial, recreational, *ecological*, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

* * * * * * *

DEFINITIONS

* * * * * * *

Sec. 304. (a) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes *islands*, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(e) "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, [and] adjacent uplands, *and islands* constituting to the extent feasible a natural unit set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

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DEVELOPMENT GRANTS

* * * * * * *

Sec. 305. (b)(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, State, regional, and interstate agencies in the management process[.] *;*

(c) The grants shall not exceed *80* [66⅔] per centum of the costs of the program in any one year and no State shall be eligible to receive more than *four* [three] annual grants pursuant to this section. Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this section, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. After making the initial grant to a coastal State, no subsequent grant shall be made under this section unless the Secretary finds that the state is satisfactorily developing such management program.

(d) Upon completion of the development of the State's management program, the state shall submit such program to the Secretary for

review and approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary [.]: *Provided, That notwithstanding any provision of this section or of section 306 no State management program submitted pursuant to this subsection shall be considered incomplete, nor shall final approval thereof be delayed, on account of such State's failure to comply with any regulations that are issued by the Secretary to implement subsection (b)(7) or (b)(8) of this section, until September 30, 1978; and Provided, That the State shall remain eligible for grants under this section through the fiscal year ending in 1978 for the purpose of developing a beach and coastal area access plan and an energy facility planning process for its State management program, pursuant to regulations adopted by the Secretary to implement subsections (b)(7) and (b)(8) of this section.* On final approval of such program by the Secretary, the State's eligibility for further grants under this section shall terminate, and the State shall be eligible for grants under section 306 of this title.

(h) The authority to make grants under this section shall expire on [June 30, 1979.] *September 30, 1979.*

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ADMINISTRATIVE GRANTS

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SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal State for not more than [66⅔] *80* per centum of the costs of administering the State's management program, if he approves such program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the state's share of costs.

SEC. 306(c). (8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature. *In considering the national interest involved in the planning for and siting of such facilities which are energy facilities located within a State's coastal zone, the Secretary shall further find, pursuant to regulations adopted by him, that the State has given consideration to any applicable interstate energy plan or program that is promulgated by an interstate entity established pursuant to section 309 of this title.*

* * * * * * *

INTERAGENCY COORDINATION AND COOPERATION

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SEC. 307. (3) After final approval by the Secretary of a state's management program, any applicant for a required Federal [license or permit] *license, lease, or permit* to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the [licensing or permitting] *licensing, leasing or permitting* agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data.

Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No [license or permit] *license, lease or permit* shall be granted by the Federal agency until the State or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

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PUBLIC HEARINGS

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SEC. [308] *311.*

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REVIEW OF PERFORMANCE

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SEC. [309] *312.*

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RECORDS

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SEC. [310] *313.*

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ADVISORY COMMITTEE

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SEC. [311] *314.*

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ESTUARINE SANCTUARIES

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SEC. [312] *315.*

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ANNUAL REPORT

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SEC. [313] *316.* (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of

each year a report on the administration of this title for the preceding fiscal year. The report shall include but not be restricted to (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this title in order of priority [and]*; (9) a general description of the economic, environmental, and social impacts of the development or production of energy resources or the siting of energy facilities affecting the coastal zone; (10) a description and evaluation of interstate and regional planning mechanisms developed by the coastal States; and* [9] *(11)* such other information as may be appropriate.

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RULES AND REGULATIONS

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SEC. [314] *317.*

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"AUTHORIZATION FOR APPROPRIATIONS

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SEC. [315] *320.* (a) There are authorized to be appropriated—

[(1) the sum of $9,000,000 for the fiscal year ending June 30, 1973, and for each of the fiscal years 1974 through 1977 for grants under section 305, to remain available until expended;

(2) such sums, not to exceed $30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977, as may be necessary, for grants under section 306 to remain available until expended; and

(3) such sums, not to exceed $6,000,000 for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years as may be necessary, for grants under section 312, to remain available until expended.

(b) There are also authorized to be appropriated such sums, not to exceed $3,000,000, for fiscal year 1973 and for each of the

four succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this title.]

"(1) *the sum of $20,000,000 for the fiscal year ending June 30, 1976, $5,000,000 for the transitional fiscal quarter ending September 30, 1976, $20,000,000 for the fiscal year ending September 30, 1977, $20,000,000 for the fiscal year ending September 30, 1978, $20,000,000 for the fiscal year ending September 30, 1979, for grants under section 305 of this Act, to remain available until expended;*

"(2) *such sums, not to exceed $50,000,000 for the fiscal year ending June 30, 1976, $12,500,000 for the transitional fiscal quarter ending September 30, 1976, $50,000,000 for the fiscal year ending September 30, 1977, $50,000,000 for the fiscal year ending September 30, 1978, $50,000,000 for the fiscal year ending September 30, 1979, and $50,000,000 for the fiscal year ending September 30, 1980, as may be necessary, for grants under section 306 of this Act, to remain available until expended;*

"(3) *such sums, not to exceed $5,000,000 for the fiscal year ending June 30, 1976, $1,200,000 for the transitional fiscal quarter ending September 30, 1976, $5,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, $5,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for grants under section 309 of this Act, to remain available until expended;*

"(4) *such sums, not to exceed $5,000,000 for the fiscal year ending June 30, 1976, $1,200,000 for the transitional fiscal quarter ending September 30, 1976, $5,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, $5,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for financial assistance under section 310(b) of this Act, to remain available until expended;*

"(5) *such sums, not to exceed $5,000,000 for the fiscal year ending June 30, 1976, $1,200,000 for the transitional fiscal quarter ending September 30, 1976, $5,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, $5,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for financial assistance under section 310(c) of this Act, to remain available until expended;*

"(6) *the sum of $50,000,000 for the fiscal year ending June 30, 1976, $12,500,000 for the transitional fiscal quarter ending September 30, 1976, $50,000,000 for the fiscal year ending September 30,*

1977, $50,000,000 for the fiscal year ending September 30, 1978, $50,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, and $50,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, for the acquisition of lands to provide for the protection of, and access to, public beaches and for the preservation of islands under section 306(d)(2) of this Act, to remain available until expended; and

"(7) such sums, not to exceed $10,000,000 for the fiscal year ending June 30, 1976, $2,500,000 for the transitional fiscal quarter ending September 30, 1976, $10,000,000 for the fiscal year ending September 30, 1977, $10,000,000 for the fiscal year ending September 30, 1978, $10,000,000 for the fiscal year ending September 30, 1979, $10,000,000 for the fiscal year ending September 30, 1980, and $10,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for grants under section 315 of this Act, to remain available until expended.

"(b) There are also authorized to be appropriated such sums, not to exceed $5,000,000 for the fiscal year ending June 30, 1976, $1,200,000 for the transitional fiscal quarter ending September 30, 1976, $5,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, $5,000,000 for the fiscal year ending September 30, 1979, and $5,000,000 for the fiscal year ending September 30, 1980, as may be necessary, for administrative expenses incident to the administration of this Act.".

TEXT OF S. 586, AS REPORTED

A BILL to amend the Coastal Zone Management Act of 1972 to authorize and assist the coastal States to study, plan for, manage, and control the impact of energy facility and resource development which affects the coastal zone, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 101. This title may be cited as the "Coastal Zone Management Act Amendments of 1975".

GENERAL PROVISIONS

SEC. 102. The Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), is amended as follows:

(1) Section 302(b) of such Act (16 U.S.C. 1451(b)) is amended by inserting "ecological," immediately after "recreational,".

(2) Section 304(a) of such Act (16 U.S.C. 1453(a)) is amended by inserting therein "islands," immediately after the words "and includes".

(3) Section 304(e) of such Act (16 U.S.C. 1453(e)) is amended by deleting "and" after "transitional areas," and inserting "and islands," after "uplands,"."

(4) Section 304 of such Act (16 U.S.C. 1453) is amended by adding at the end thereof the following new subsections:

"(j) 'Energy facilities' means new facilities, or additions to existing facilities—

"(1) which are or will be directly used in the extraction, conversion, storage, transfer, processing, or transporting of any energy resource; or

"(2) which are or will be used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are or will be directly involved in any activity described in paragraph (1) of this subsection and which will serve, impact, or otherwise affect a substantial geographical area or substantial numbers of people.

The terms includes, but is not limited to, (A) electric generating plants; (B) petroleum refineries and associated facilities; (C) gasification plants; liquefied natural gas storage, transfer, or conversion facilities; and uranium enrichment or nuclear fuel processing facilities; (D) offshore oil and gas exploration, development, and production facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, refining complexes, and any other installation or property that is necessary or appropriate for such exploration, development or production; (E) facilities for offshore loading and marine transfer of petroleum: and (F) transmission and pipeline facilities, including terminals which are associated with any of the foregoing.

"(k) 'Person' has the meaning prescribed in section 1 of title 1, United States Code, except that the term also includes any State, local, or regional government; the Federal Government; and any department, agency, corporation, instrumentality, or other entity or official of any of the foregoing.

"(l) 'Public facilities and public services' means any services or facilities which are financed, in whole or in part, by State or local government. Such services and facilities include, but are not limited to, highways, secondary roads, parking, mass transit, water supply, waste collection and treatment, schools and education, hospitals and health care, fire and police protection, recreation and culture, other human services, and facilities related thereto, and such governmental services as are necessary to support any increase in population and development.".

(5) Section 305(b) of such Act (16 U.S.C. 1454(b)) is amended by deleting the period at the end thereof and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

"(7) a definition of the term 'beach' and a general plan for the protection of, and access to, public beaches and other coastal areas of environmental, recreational, historical, esthetic, ecological, and cultural value;

"(8) planning for energy facilities likely to be located in the coastal zone, planning for and management of the anticipated impacts from any energy facility, and a process or mechanism capable of adequately conducting such planning activities.

(6) Section 305(c) of such Act (16 U.S.C. 1453(c)) is amended

by deleting "66⅔" and inserting in lieu thereof "80", and by deleting in the first sentence thereof "three" and inserting in lieu thereof "four".

(7) Section 305(d) of such Act (16 U.S.C. 1454(d)) is amended by—

(A) deleting the period at the end of the first sentence thereof and inserting in lieu thereof the following ": *Provided*, That notwithstanding any provision of this section or of section 306 no State management program submitted pursuant to this subsection shall be considered incomplete, nor shall final approval thereof be delayed, on account of such State's failure to comply with any regulations that are issued by the Secretary to implement subsection (b)(7) or (b)(8) of this section, until September 30, 1978."; and

(B) deleting the period at the end thereof and inserting in lieu thereof the following ": *Provided*, That the State shall remain eligible for grants under this section through the fiscal year end-in 1978 for the purpose of developing a beach and coastal area access plan and an energy facility planning process for its State management program, pursuant to regulations adopted by the Secretary to implement subsections (b)(7) and (b)(8) of this section.".

(8) Section 305(h) of such Act (16 U.S.C. 1454(h)) is amended by deleting "June 30, 1977" and inserting in lieu thereof "September 30, 1979.".

(9) Section 306(a) of such Act (16 U.S.C. 1455(a)) is amended by deleting "66⅔" and inserting in lieu thereof "80".

(10) Section 306(c)(8) of such Act (16 U.S.C. 1455(c)(8)) is amended by adding at the end thereof the following new sentence: "In considering the national interest involved in the planning for and siting of such facilities which are energy facilities located within a State's coastal zone, the Secretary shall further find, pursuant to regulations adopted by him, that the State has given consideration to any applicable interstate energy plan or program which is promulgated by an interstate entity established pursuant to section 309 of this title.".

(11) Section 306 of such Act (16 U.S.C. 1455) is amended by adding at the end thereof the following new subsection:

"(i) As a condition of a State's continued eligibility for grants pursuant to this section, the management program of such State shall, after the fiscal year ending in 1978, include, as an integral part, an energy facility planning process, which is developed pursuant to section 305(b)(8) of this title, and approved by the Secretary, and a general plan for the protection of, and access to, public beaches and other coastal areas, which is prepared pursuant to section 305(b)(7) of this title, and approved by the Secretary."

(12) Section 307(c)(3) of such Act (16 U.S.C. 1456(c)(3)) is amended by (A) deleting "license or permit" in the first sentence thereof and inserting in lieu thereof "license, lease, or permit"; (B) deleting "licensing or permitting" in the first sentence thereof and inserting in lieu thereof "licensing, leasing, or permitting"; and (C) deleting "license or permit" in the last sentence thereof and inserting in lieu thereof "license, lease, or permit".

(13) Sections 308 through 315 of such Act (16 U.S.C. 1457 through 1464) are redesignated as sections 311 through 318 thereof, respectively; and the following three new sections are inserted as follows:

"COASTAL ENERGY FACILITY IMPACT PROGRAM

"SEC. 308. (a) The Secretary is authorized to make a grant to a coastal State, if he determines that such State's coastal zone has been, or is likely to be, impacted by the exploration for, or the development or production of, energy resources or by the location, construction, expansion, or operation of an energy facility. Such a grant shall be for the purpose of enabling such coastal State to study and plan for the economic, environmental, and social consequences which are likely to result in such coastal zone from exploration for and development or production of such energy resources or from the location, construction, expansion, or operation of such an energy facility. The amount of such a grant may equal up to 100 percent of the cost of such study and plan, to the extent of available funds.

"(b) The Secretary is authorized to make a loan and/or a grant to a coastal State, if he determines, pursuant to subsection (d) and (e) of this section, that such State's coastal zone has been or is likely to be adversely impacted by exploration for or by development or production of energy resources or by the location, construction, expansion, or operation of an energy facility, if such adverse impact will result as a consequence of a license, lease, easement, or permit issued or granted by the Federal Government which permits—

"(1) the exploration for, or the drilling, mining, removal, or extraction of, energy resources;

"(2) the siting, location, construction, expansion, or operation of energy facilities by a lessee, licensee, or permittee; or

"(3) the siting, location, construction, expansion, or operation of energy facilities by or for the United States Government.

The proceeds of such a loan or grant shall be used for—

"(A) projects which are designed to reduce, ameliorate, or compensate for the net adverse impacts; and/or

"(B) projects which are designed to provide new or additional public facilities and public services which are made necessary, directly or indirectly, by the location, construction, expansion, or operation of such an energy facility or energy resource exploration, development or production.

The amount of such a loan or grant may equal up to 100 percent of the cost of such a project, to the extent of available funds.

"(c)(1) The Secretary may make a grant to a coastal State for a purpose specified in subsection (b) of this section, if he determines that such State will suffer net adverse impacts in its coastal zone, as a result of exploration for, or development and production of, energy resources; as a result of the location, construction, expansion, or operation of an energy facility over the course of the projected or anticipated useful life of such energy facility; or as a result of exploration, development, or production activity.

"(2) The Secretary may make a loan to a coastal State for a purpose specified in subsection (b) of this section, if the Secretary determines that such State will experience temporary adverse impacts as

a result of exploration for, or development or production of, energy resources or as a result of the location, construction, expansion, or operation of an energy facility if such facility or such energy resource exploration, development or production is expected to produce net benefits for such State over the course of its projected or anticipated useful life. No such loan, including any renewal or extension of a loan, shall be made for a period exceeding 40 years. The Secretary shall from time to time establish the interest rate or rates at which loans shall be made under this subsection, but such rate shall not exceed an annual percentage rate of 7 percent. The borrower shall pay such fees and other charges as the Secretary may require. The Secretary may waive repayment of all or any part of a loan made under this subsection, including interest, if the State involved demonstrates, to the satisfaction of the Secretary, that due to a change in circumstances there are anticipated or resultant net adverse impacts over the life of an energy facility or energy resource exploration, development or production which would qualify the State for a grant pursuant to paragraph (1) of this subsection.

"(d) The Secretary shall, by regulations promulgated in accordance with section 553 of title 5, United States Code, establish requirements for grant and loan eligibility pursuant to this section. Such requirements shall include criteria, which may include a formula, for calculating the amount of a grant or loan based upon the difference, to the State involved between the benefits and the costs which are attributable to the exploration for or development and production of energy resources or to the location, construction, expansion, or operation of an energy facility. Such regulations shall provide that a State is eligible for a grant or loan upon a finding by the Secretary that such State—

"(1) is receiving a program development grant under section 305 of this title or is engaged in such program development in a manner consistent with the goals and objectives of this Act, as determined by the Secretary, and is making satisfactory progress, as determined by the Secretary, toward the development of a coastal zone management program, or that it has an approved such program pursuant to section 306 of this title;

"(2) has demonstrated to the satisfaction of the Secretary that it has suffered, or is likely to suffer, net adverse impacts, according to the criteria or formula promulgated by the Secretary, and has provided all information required by the Secretary to calculate the amount of the grant or loan; and

"(3) has demonstrated to the satisfaction of the Secretary and has provided adequate assurances that the proceeds of such grant or loan will be used in a manner that will be consistent with the coastal zone management program being developed by it, or with its approved program, pursuant to section 305 or 306 of this title, respectively.

"(e) Within 180 days after approval of this Act, the Secretary shall issue regulations prescribing criteria in accordance with this Act for determining the eligibility of a coastal State for grants pursuant to subsections (a), (b), and (c)(1) of this section, and regulations for determining the amount of such grant or loan, in accordance with the following provisions:

"(1) The regulations shall specify the means and criteria by which the Secretary shall determine whether a State's coastal zone has been, or is likely to be, adversely impacted, as defined in this section, and the means and criteria by which 'net adverse impacts' and 'temporary adverse impacts' will be determined.

"(2) Regulations for grants pursuant to subsection (a) of this section for studying and planning, shall include appropriate criteria for the activities for which funds will be provided under such subsection, including a general range of activities for which a coastal State may request funds.

"(3) Regulations for grants and/or loans for projects pursuant to subsections (b) and (c) of this section shall specify criteria for determining—

"(A) the amounts which will be provided for such projects; and

"(B) guidelines and procedures for evaluating those projects which each coastal State considers to be most needed.

"(4) Regulations for loans shall provide for such security as the Secretary dèems necessary, if any, to protect the interests of the United States and for such terms and conditions as give assurance that such loans will be repaid within the time fixed.

"(5) In all cases, each recipient of financial assistance under this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, and such other records as will facilitate an effective audit. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall until the expiration of 3 years after the completion of the project or undertaking involved (or repayment of a loan, in such cases) have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which, in the opinion of the Secretary or the Comptroller General may be related or pertinent to any financial assistance received pursuant to this section.

"(6) In developing regulations under this section, the Secretary shall consult with the appropriate Federal agencies, with representatives of appropriate State and local governments, commercial and industrial organizations, public and private groups, and any other appropriate organizations with knowledge or concerns regarding net adverse impacts that may be associated with the energy facilities affecting the coastal zone.

"(f) A coastal State may, for the purpose of carrying out the provisions of this section and with the approval of the Secretary, allocate all or a portion of any grant or loan received under this section to (1) a local government; (2) an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966; (3) a regional agency; or (4) an interstate agency.

"(g) A coastal State which has experienced net adverse impacts in its coastal zone as a result of the development or production of energy resources or as a result of the location construction, expansion, or opera-

tion of energy facilities prior to the date of enactment of this section is entitled to receive from the Secretary grants or loans pursuant to subsections (a) and (b) of this section to the same extent as if such net adverse impacts were experienced after the date of enactment, and to the extent necessary to reduce or ameliorate or compensate for such net adverse impacts, within the limit of available funds. This subsection shall expire 5 years from the date of enactment of this section.

"(h) All funds allocated to the Secretary for the purposes of this section shall be deposited in a fund which shall be known as the Coastal Energy Facility Impact Fund. This fund shall be administered and used by the Secretary as a revolving fund for carrying out such purposes. General expenses of administering this section may be charged to this fund. Moneys in this fund may be deposited in interest-bearing accounts or invested in bonds or other obligations which are guaranteed as to principal and interest by the United States.

"(i) In calculating the amount of a grant or loan, the Secretary shall give adequate consideration to the recommendations of a Coastal Impacts Review Board. Such Board shall consist of two members designated by the Secretary, one member designated by the Secretary of the Interior, and two members appointed by the President from a list of not less than six candidates submitted to the President by the National Governors' Conference. Such Board shall recommend the award of grants or loans upon a determination of net adverse impacts and following the procedures and criteria set forth in this section.

"(j) Nothing in this section shall be construed to modify or abrogate the consistency requirements of section 307 of this Act.

"(k) In addition to other financial assistance to the States provided under this section, the Secretary shall make an automatic grant to each coastal State which is, as of the first day of the fiscal year—

"(1) adjacent to Outer Continental Shelf lands on which oil or natural gas is being produced; or

"(2) permitting crude oil or natural gas to be landed in its coastal zone: *Provided*, That such crude oil or natural gas has been produced on adjacent Outer Continental Shelf lands of such State or on Outer Continental Shelf lands which are adjacent to another State and transported directly to such State. In the event that a State is landing oil or natural gas produced adjacent to another State, the landing State shall be eligible for grants under this subsection at a rate half as great as that to which it would be eligible in any given year if the oil were produced adjacent to the landing State. In the event that a State is adjacent to Outer Continental Shelf lands where oil or natural gas is produced, but such oil or natural gas is landed in another State, the adjacent State shall be eligible for grants under this subsection at a rate half as great as that to which it would be eligible in any given year if the oil or natural gas produced adjacent to that State were also landed in that State.

Such States shall become eligible to receive such automatic grants in the first year that the amount of such oil or natural gas landed in the State or produced on Outer Continental Shelf lands adjacent to the State (as determined by the Secretary) exceeds a volume of 100,000 barrels per day of oil or an equivalent volume of natural gas. The Sec-

retary shall establish regulations to assure that funds authorized by this subsection for grants to States shall be expended by the States for the purpose of reducing or ameliorating adverse impacts resulting from the exploration for, or the development or production of, energy resources or resulting from the location, construction, expansion or operation of a related energy facility. Such funds not so expended shall be returned to the Treasury. There are authorized to be appropriated for this purpose sufficient funds to provide such States with grants in the amount of 20 cents per barrel during the first year, 15 cents per barrel during the second year, 10 cents per barrel during the third year, and 8 cents per barrel during the fourth and all succeeding years during which oil or gas is landed in such a State or produced on Outer Continental Shelf lands adjacent to such a State: *Provided*, That (A) such funds shall not exceed $50,000,000 for the fiscal year ending June 30, 1976; $12,500,000 for the fiscal quarter ending September 30, 1976; $50,000,000 for the fiscal year ending September 30, 1977; and $50,000,000 for the fiscal year ending September 30, 1978; and (B) such funds shall be limited to payments for the first million barrels of oil (or its gas equivalent) per day per State for the 10 succeeding fiscal years. The amount of such grant to each such State in any given year shall be calculated on the basis of the previous year's volume of oil or natural gas landed in the State or produced adjacent to the State. Such grants shall initially be designated by each receiving State to retire State and local bonds which are guaranteed under section 316 of this Act: *Provided*, That, if the amount of such grants is insufficient to retire both State and local bonds, priority shall be given to retiring local bonds.

"(l) There are hereby authorized to be appropriated to the Coastal Energy Facility Impact Fund such sums not to exceed $250,000,000 for the fiscal year ending June 30, 1976, not to exceed $75,000,000 for the transitional fiscal quarter ending September 30, 1976, not to exceed $250,000,000 for the fiscal year ending September 30, 1977, and not to exceed $250,000,000 for the fiscal year ending September 30, 1978, as may be necessary, for grants and/or loans under this section, to remain available until expended. No more than 20 percent of the total amount appropriated to such fund for a particular fiscal year, not to exceed $50,000,000 per year, shall be used for the purposes set forth in subsection (a) of this section.

"INTERSTATE COORDINATION GRANTS TO STATES

"SEC. 309. (a) The States are encouraged to give high priority (1) to coordinating State coastal zone planning, policies, and programs in contiguous interstate areas, and (2) to studying, planning, and/or implementing unified coastal zone policies in such areas. The States may conduct such coordination, study, planning, and implementation through interstate agreement or compacts. The Secretary is authorized to make annual grants to the coastal States, not to exceed 90 percent of the cost of such coordination, study, planning, or implementation, if the Secretary finds that each coastal State receiving a grant under this section will use such grants for purposes consistent with the provisions of sections 305 and 306 of this title.

"(b) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) developing and administering coordinated coastal zone planning, policies, and programs, pursuant to sections 305 and 306 of this title, and (2) the establishment of such agencies, joint or otherwise, as the States may deem desirable for making effective such agreements and compacts. Such agreement or compact shall be binding and obligatory upon any State or party thereto without further approval by Congress.

"(c) Each executive instrumentality which is established by an interstate agreement or compact pursuant to this section is encouraged to establish a Federal-State consultation procedure for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, whenever any such Federal-State consultation is requested by such an instrumentality.

"(d) Prior to establishment of an interstate agreement or compact pursuant to this section, the Secretary is authorized to make grants to a multistate instrumentality or to a group of States for the purpose of creating temporary ad hoc planning and coordinating entities to—

"(1) coordinate State coastal zone planning, policies, and programs in contiguous interstate areas;

"(2) study, plan, and/or implement unified coastal zone policies in such interstate areas; and

"(3) provide a vehicle for communication with Federal officials with regard to Federal activities affecting the coastal zone of such interstate areas.

The amount of such grants shall not exceed 90 percent of the cost of creating and maintaining such an entity. The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency, or their designated representatives, are authorized and directed to participate ex officio on behalf of the Federal Government, upon the request of the parties to such ad hoc planning and coordinating entities. This subsection shall become void and cease to have any force or effect 5 years after the date of enactment of this title.

"COASTAL RESEARCH AND TECHNICAL ASSISTANCE

"SEC. 310. (a) In order to facilitate the realization of the purposes of this Act, the Secretary is authorized to encourage and to support private and public organizations concerned with coastal zone management in conducting research and studies relevant to coastal zone management.

"(b) The Secretary is authorized to conduct a program of research, study, and training to support the development and implementation of State coastal zone management programs. Each department, agency, and instrumentality of the executive branch of the Federal Govern-

ment shall assist the Secretary, upon his written request, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and in the actual conduct of any such research, study, and training so long as such activity does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts and other arrangements with suitable individuals, business entities, and other institutions or organizations for such purposes. The Secretary shall make the results of research conducted pursuant to this section available to any interested person. The Secretary shall include, in the annual report prepared and submitted pursuant to this Act, a summary and evaluation of the research, study, and training conducted under this section.

"(c) The Secretary is authorized to assist the coastal States to develop their own capability for carrying out short-term research, studies, and training required in support of coastal zone management. Such assistance may be provided by the Secretary in the form of annual grants. The amount of such a grant to a coastal State shall not exceed 80 percent of the cost of developing such capability."

(14) Section 316, as redesignated, of such Act (16 U.S.C. 1462) is amended by (A) deleting "and" at the end of paragraph (8) thereof immediately after the semicolon; (B) renumbering paragraph (9) thereof as paragraph (11) thereof; and (C) inserting the following two new paragraphs:

"(9) a general description of the economic, environmental, and social impacts of the development or production of energy resources or the siting of energy facilities affecting the coastal zone;

"(10) a description and evaluation of interstate and regional planning mechanisms developed by the coastal States; and".

(15) Section 318, as redesignated, of such Act (16 U.S.C. 1464) is further redesignated and amended to read as follows:

"AUTHORIZATION FOR APPROPRIATIONS

"SEC. 320. (a) There are authorized to be appropriated—

"(1) the sum $20,000,000 for the fiscal year ending June 30, 1976, $5,000,000 for the transitional fiscal quarter ending September 30, 1976, $20,000,000 for the fiscal year ending September 30, 1977, $20,000,000 for the fiscal year ending September 30, 1978, and $20,000,000 for the fiscal year ending September 30, 1979, for grants under section 305 of this Act, to remain available until expended;

"(2) such sums, not to exceed $50,000,000 for the fiscal year ending June 30, 1976, $12,500,000 for the transitional fiscal quarter ending September 30, 1976, $50,000,000 for the fiscal year ending September 30, 1977, $50,000,000 for the fiscal year ending September 30, 1978, $50,000,000 for the fiscal year ending September 30, 1979, and $50,000,000 for the fiscal year ending September 30, 1980, as may be necessary, for grants under section 306 of this Act, to remain available until expended;

"(3) such sums, not to exceed $5,000,000 for the fiscal year ending June 30, 1976, $1,200,000 for the transitional fiscal quarter ending September 30, 1976, $5,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, $5,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for grants under section 309 of this Act, to remain available until expended;

"(4) such sums, not to exceed $5,000,000 for the fiscal year ending June 30, 1976, $1,200,000 for the transitional fiscal quarter ending September 30, 1976, $5,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, $5,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for financial assistance under section 310(b) of this Act, to remain available until expended;

"(5) such sums, not to exceed $5,000,000 for the fiscal year ending June 30, 1976, $1,200,000 for the transitional fiscal quarter ending September 30, 1976, $5,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, $5,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, as may be necessary, for financial assistance under section 310(c) of this Act, to remain available until expended;

"(6) the sum of $50,000,000 for the fiscal year ending June 30, 1976, $12,500,000 for the transitional fiscal quarter ending September 30, 1976, $50,000,000 for the fiscal year ending September 30, 1977, $50,000,000 for the fiscal year ending September 30, 1978, $50,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, and $50,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985, for the acquisition of lands to provide for the protection of, and access to, public beaches and for the preservation of islands under section 306(d)(2) of this Act, to remain available until expended; and

"(7) such sums, not to exceed $10,000,000 for the fiscal year ending June 30, 1976, $2,500,000 for the transitional fiscal quarter ending September 30, 1976, $10,000,000 for the fiscal year ending September 30, 1977, $10,000,000 for the fiscal year ending September 30, 1978, $10,000,000 for the fiscal year ending September 30, 1979, $10,000,000 for the fiscal year ending September 30, 1980, and $10,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, September

30, 1984, and September 30, 1985, as may be necessary, for grants under section 315 of this Act, to remain available until expended.

"(b) There are also authorized to be appropriated such sums, not to exceed $5,000,000 for the fiscal year ending June 30, 1976, $1,200,000 for the transitional fiscal quarter ending September 30, 1976, $5,000,000 for the fiscal year ending September 30, 1977, $5,000,000 for the fiscal year ending September 30, 1978, $5,000,000 for the fiscal year ending September 30, 1979, and $5,000,000 for the fiscal year ending September 30, 1980, as may be necessary, for administrative expenses incident to the administration of this Act.".

(16) The Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.) is amended by inserting therein the following two new sections:

"LIMITATIONS

"SEC. 318. (a) Nothing in this Act shall be construed—

"(1) to authorize or direct the Secretary, or any other Federal official, to intercede in a State land- or water-use decision with respect to non-Federal lands except to the extent and in the manner specifically authorized by this Act;

"(2) to require the approval of the Secretary as to any particular State land- or water-use decision as a prerequisite to such State's eligibility for grants or loans under this Act; or

"(3) to expand or extend Federal review or approval authority with respect to the siting or location of any specific energy facility.

"(b) Any grant or loan made pursuant to section 308 of this Act shall not be deemed a 'major Federal action' for the purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91–190).

"STATE AND LOCAL GOVERNMENT BOND GUARANTEES

"SEC. 319. (a) The Secretary is authorized, subject to such terms and conditions as the Secretary prescribes, to make commitments to guarantee and to guarantee against loss of principal or interest the holders of bonds or other evidences of indebtedness issued by a State or local government to reduce, ameliorate or compensate the adverse impacts in the coastal zone resulting from or likely to result from the exploration for, or the development of production of, energy resources of the Outer Continental Shelf.

"(b) The Secretary shall prescribe and collect a guarantee fee in connection with guarantees made pursuant to this section. Such fees shall not exceed such amounts as the Secretary estimates to be necessary to cover the administrative costs of carrying out the provisions of this section. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

"(c)(1) Payments required to be made as a result of any guarantee pursuant to this section shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for such purpose.

"(2) If there is a default by a State or local government in any payment of principal or interest due under a bond or other evidence of indebtedness guaranteed by the Secretary pursuant to this section, any holder of such a bond or other evidence of indebtedness may demand payment by the Secretary of the unpaid interest on and the unpaid principal of such obligation as they become due. The Secretary, upon investigation, shall pay such amounts to such holders, unless the Secretary finds that there was no default by the State or local government involved or that such default has been remedied. If the Secretary makes a payment under this paragraph, the United States shall have a right of reimbursement against the State or local government involved for the amount of such payment plus interest at prevailing rates. Such right of reimbursement may be satisfied by the Secretary by treating such amount as an offset against any revenues due or to become due to such State or local government under section 308(k) of this Act, and the Attorney General, upon the request of the Secretary, shall take such action as is, in the Secretary's discretion, necessary to protect the interests of the United States, including the recovery of previously paid funds that were not applied as provided in this Act. However, if the funds accrued by or due to the State in automatic grants under section 308(k) of this Act are insufficient to reimburse the Federal government in full for funds paid under this section to retire either the principal or interest on the defaulted bonds, the Secretary's right of reimbursement shall be limited to the amount of such automatic grants accrued or due. Funds accrued in automatic grants under section 308(k) of this Act subsequent to default shall be applied by the Secretary towards the reimbursement of the obligations assumed by the Federal government.".

"SEC. 103. (a) There shall be in the National Oceanic and Atmospheric Administration an Associate Administrator for Coastal Zone Management who shall be appointed by the President, by and with the advice and consent of the Senate. Such Associate Administrator shall be a qualified individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of this Act. Such Associate Administrator shall be compensated at the rate now or hereafter provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

"(b) Section 5316 of title 5, United States Code is amended by adding at the end thereof the following new paragraph:

"(135) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.".

AGENCY COMMENTS

On February 21, 1975, the Committee wrote to the following agencies requesting comments on S. 586: Department of the Interior; Department of Commerce; Environmental Protection Agency (EPA); Council on Environmental Quality (CEQ); Federal Energy Administration (FEA); Federal Power Commission (FPC); and Department of Housing and Urban Development (HUD).

The Committee has received no comments from these agencies and departments. However, in joint hearings with the Committee on In-

terior and Insular Affairs on S. 586 and several bills to amend the Outer Continental Shelf Lands Act of 1953, the Committee heard testimony from the following departmental and agency spokesmen: Rogers C. B. Morton, Secretary of the Interior; Robert M. White, Administrator, National Oceanic and Atmospheric Administration, Department of Commerce; Russell V. Train, Administrator, Environmental Protection Agency; Russell W. Peterson, Chairman, Council on Environmental Quality; and Owen W. Siler, Commandant, U.S. Coast Guard, Department of Transportation.

On March 5, 1975, Senator Hollings wrote to the Office of Management and Budget in the Executive Office of the President, requesting comments on S. 586. The reply follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., March 24, 1975.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: This is a note of thanks for your thoughtful letter of March 5 expressing your views on meeting States' and communities' financial needs resulting from OCS development.

Your letter is timely in that the Administration is currently reviewing this subject. It is a complex subject and the Administration will not likely take a position on OCS revenue sharing until we gain more information on such matters as what the onshore impacts are likely to be and until there is a better understanding of the equity of such sharing. We will most certainly keep your thoughtful views in mind as we progress in our studies of this subject.

Sincerely,

JOHN A. HILL,
Acting Associate Director.

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